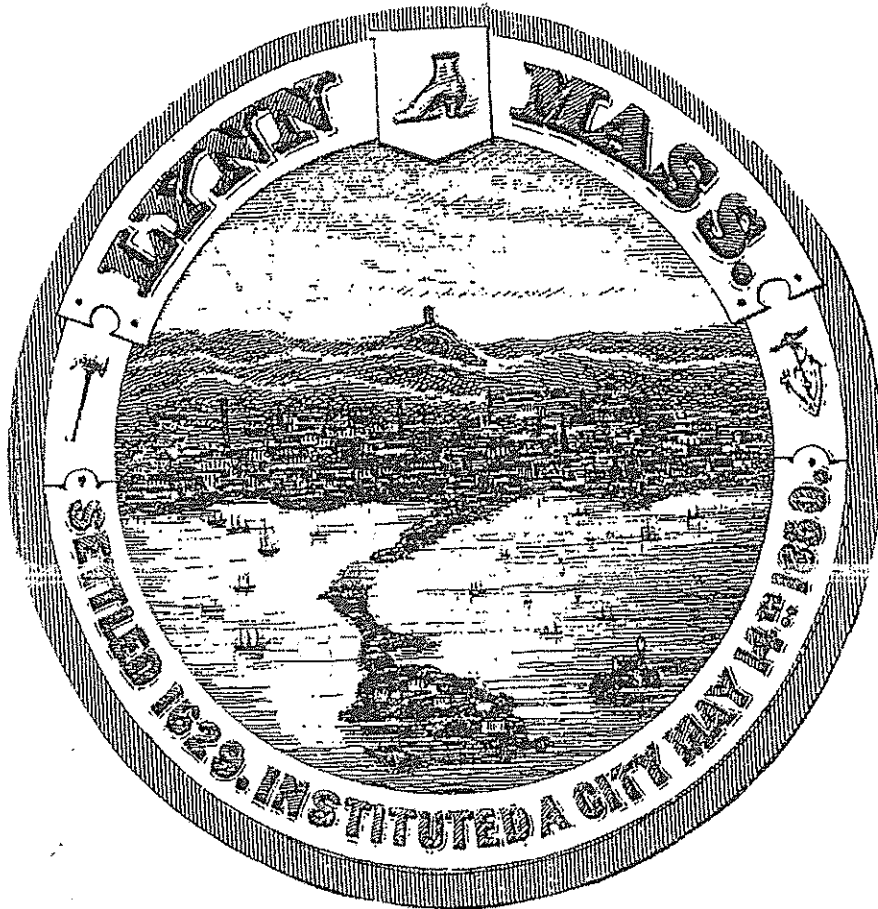


CITY OF LYNN

ZONE ORDINANCE



APPROVED JUNE 8, 1925
CITY COUNCIL

APPROVED JUNE 10, 1925
RALPH S. BAUER, MAYOR

WITH AMENDMENTS THROUGH
OCTOBER 23, 2018

APPROVED OCTOBER 23, 2018
CITY COUNCIL

APPROVED OCTOBER , 2018
THOMAS M. MCGEE,
MAYOR

**CITY OF LYNN ZONE ORDINANCE
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CITY OF LYNN
ZONING ORDINANCE

IN THE YEAR ONE THOUSAND NINE HUNDRED AND TWENTY-SIX AN ORDINANCE
TO LIMIT BUILDINGS ACCORDING TO THEIR USE OR CONSTRUCTION TO SPECIFIC
DISTRICTS OF THE CITY OF LYNN

Be it ordained by the City Council of the City of Lynn, and by the authority of the same, as follows:

SECTION 1

PURPOSE

To promote the health, safety, morals, convenience and general welfare of its inhabitants, to lessen the danger from fire, congestion and confusion, and to improve and beautify the City under and pursuant to the provisions of the Massachusetts General Laws, Chapter Forty A, and all amendments thereto, the use, height, area, construction, repair and alteration of buildings or structures and the use of premises in said City are hereby restricted and regulated as hereinafter provided.

SECTION 2

DEFINITIONS

In this Ordinance, the following terms shall have the meaning hereby assigned to them.

- 2.1 Accessory Use: A use of a building or premises customarily incident to the use permitted in the district.
- 2.2 Automobile Repair/Body Shop: A repair shop for automobiles where power driven machinery is used, electric or acetylene gas welding, cleaning by explosive sprays, and similar activities of an objectionable nature.
- 2.3 Court: An open space other than a yard on the same lot with a building.
- 2.4 Elderly Housing Project: Any project which houses elderly persons exclusively shall be considered an elderly housing project.
- 2.5 Elderly Person: For the purpose of this Ordinance, an elderly person shall be anyone who has reached the age of sixty-two.
- 2.6 Family: One or more persons related by blood, adoption or marriage, or having a legal relationship as foster parent-foster child, occupying a dwelling unit and living as a single, non-profit housekeeping unit, exclusive of domestic employees; provided, however, that a group of four persons or less who occupy a dwelling unit and live as a single non-profit housekeeping unit, although not so related by blood, adoption or marriage or not having

such a legal relationship as foster parent-foster- child, shall be deemed to constitute a family. The City Council may grant permission under the provisions of Section 12 for a group of five (5) or more persons not so related or not having a legal relationship to be deemed to constitute a family and thusly occupy a dwelling unit and live as a single non-profit housekeeping unit.

- 2.7 Food Service Establishment: Any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and whether there is a charge for the food. The term includes, but is not limited to, restaurants, sandwich shops, take-out operations, delicatessens, and catering operations. The term does not include residential kitchens (except as provided in 105 CMR 590.028), retail food stores, supply vehicles, or kitchens in churches, social clubs or fraternal organizations.
- 2.8 Front Yard: A yard across the full width of the lot and extending from the front line of the building to the front line of the lot.
- 2.9 Garage: Any garage other than a private garage, or where automobiles are equipped for operation, repaired, or kept for remuneration or hire, equipping and repairing to be done only by hand tools.
- 2.10 Height: The height of a building shall be the vertical distance measured from the mean level of the grade of the street to the mean height of the roof, except that a parapet exceeding three feet in height shall be considered a part of the height.
- 2.11 High Rise Building: A high-rise building is defined to be a building that has a height in excess of five stories or sixty (60) feet in height.
- 2.12 Inner Court: A court not extending to a street or yard. A court extending only to a side lot line shall be deemed an inner court.
- 2.13 Lot: A parcel of land used or set aside and available for use as a site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one ownership and not divided by a public or private way which is open or dedicated to public use, not including any land within the limits of a public or private way upon which such lot abuts.
- 2.14 Non-Conforming Use: A use of a building or land which does not agree with the use requirements for the use district in which it is located.
- 2.15 Outer Court: A court extending to a street or yard.
- 2.16 Private Garage: A garage for not more than two (2) automobiles for storage only, in which space may be rented to persons not occupants of the premises.

- 2.17 Rear yard: A yard across which the full width of the lot extending from the rear line of the building to the rear line of the lot.
- 2.18 Side yard: A yard between the building and the adjacent side line of the lot and extending from the front yard to the rear yard.
- 2.19 Story: A story of a building shall mean any horizontal portion through such building between the floor and ceiling of which the ceiling is six feet or more above the mean level of the street or way on which the building abuts or on which it is numbered, or if there is no street or way, than the average level of the lot at the building.
- 2.20 Accessory Structure: A structure being utilized for an accessory use including, but not limited to a garage, shed or an attached open deck.

SECTION 3

ESTABLISHMENT OF DISTRICTS

3.1 For the purpose of this Ordinance, the City of Lynn is divided into eighteen (18) types of districts designated as:

3.1.1	Single Residence Districts	(R1)
3.1.2	General Residence Districts.....	(R2)
3.1.3	Apartment House Districts Class 1	(R3)
3.1.4	Apartment House Districts Class 2	(R4)
3.1.5	High Rise Building District	(R-5)
3.1.6	Business District Class 3.....	(B-3)
3.1.7	Business Districts.....	(B)
3.1.8	Boston Street Business District.....	(BSBD)
3.1.9	Central Business District.....	(CBD)
3.1.10	Light Industrial Districts	(LI)
3.1.11	Heavy Industrial Districts	(HI)
3.1.12	Waterfront Zone 1 District.....	(WFI)
3.1.13	Waterfront Zone 1A District.....	(WF1A)
3.1.14	Waterfront Zone 2 District.....	(WF2)
3.1.15	Waterfront Zone 3 District.....	(WF3)
3.1.16	Waterfront Zone 4 District.....	(WF4)
3.1.16	Washington Street District.....	(WS)
3.1.17	Sagamore Hill Corridor Overlay.....	(SHCO)
3.1.18	Designated Port Area	(DPA)
3.1.19	Tidelands Overlay	(TO)
3.1.20	Medical Marijuana Treatment Center Overlay	(MMTCO)
3.1.21	Medical Village Overlay District.....	(MVOD)

3.2 ZONING MAP

Said districts are shown, defined, and bounded on the map entitled Zoning Map City of Lynn, dated June 8, 1926, as amended from time to time and as amended by this Ordinance on April 24, 2018, signed by the City Engineer, and on file with the City Clerk, and said map and all explanatory matter thereon are hereby made a part of this Ordinance.

3.3 INTERPRETATION

The district boundaries shall be shown on the Zone Map, the scale of the map and figures entered to serve as guides. Where boundaries are indicated as parallel to a street line and approximately one-hundred (100) feet from the street line, the distance shall be one-hundred (100) feet. Where Zone lines apparently follow property lines, they shall be so interpreted. Where building lines for apartment house buildings and industrial districts are established by the City, the Zone lines shall be measured from the building lines. When a district boundary line divides a lot in a single or joint ownership at the time such boundary line is established, a use authorized on the less restricted portion may be extended into the more restricted portion, but in no event except by decision of the Board of Appeals, made after due notice and hearing to all

parties interested. Where a business or industrial district adjoins a residential district, the business or industrial building shall have no openings on side streets for the receiving or delivery of goods. In case of doubt, the Zone lines shall be determined by the Building Commissioner.

SECTION 4

USE REGULATIONS

4.1

APPLICABILITY

Except as provided in the Zoning Act or in this Ordinance, no building, structure, water body, or lot shall be used in any district for the purposes not set forth in Section 4 Table of Use Regulations. Any use not listed shall be construed to be prohibited. The Building Commissioner shall make all determinations as to the applicability of a use in all districts, appeals to the Building Commissioner's determinations shall be made to the Board of Appeals.

4.2

INTERPRETATION

In Section 4, Table of Use Regulations, the uses permitted by right in the district are designated by the letter (P). Uses designated by the symbol (-) shall not be permitted in the district. Those uses that may be permitted by Special Permit are designated by (SP). All Special Permits are granted by the City Council unless otherwise specified. All Special Permits shall be processed in accordance with Section 12.

Existing and future uses of land, buildings or structures shall be allocated among the categories set forth in Section 4, Table of Use Regulations. Each use set forth in the principal use column of such table shall be defined by reference to the Subsection of Section 5 appearing next to such principal Use and shall be subject to conditions as may be set forth therein and in such Subsection.

4.3

OTHER REGULATIONS

Uses permitted by right or by Special Permit shall be subject, in addition to use regulations, to all other provisions of this Ordinance.

USES/DISTRICTS		R1	R2	R3	R4	R5	B3	B	BSBZ	CBD	LI	HI	WF1	WF1A	WF2	WF3	WF4	WS	SHCO	DPA	TO (13)	MMTCO	INVOD
RESIDENTIAL																							
4.1.1	Apartment House (6)	--	--	P	P	P	SP	SP	SP	SP	SP	SP	--	--	--	--	--	P	P	--	--	--	--
4.1.2	Artist Live/Work Space (6)	--	--	--	--	--	--	--	--	P	--	--	--	--	--	--	--	--	P	--	--	--	--
4.1.3	Assisted Living Facility	--	SP	SP	SP	SP	SP	SP	--	--	SP	SP	--	--	--	--	P	--	--	--	--	--	--
4.1.4	Boarding house or lodging house	--	--	--	--	--	SP	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.1.5	Group residence (5)	SP	SP	SP	SP	SP	SP	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.1.6	Mixed Use Street Level	--	SP	P	SP	SP	SP	SP	P	P	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.1.7	Mixed Use Multi Level	--	SP	P	SP	SP	SP	SP	SP	SP	SP	SP	P	P	P	P	P	SP	SP	--	--	--	--
4.1.8	Multi-family residential high rise (6)(7)	--	--	--	--	SP	SP	SP	--	SP	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.1.9	One family detached house	P	P	P	P	P	P	SP	--	--	SP	SP	--	--	--	--	--	--	P	--	--	--	--
4.1.10	Row house	--	--	P	P	P	SP	SP	--	--	SP	SP	--	--	--	P	--	P	P	--	--	--	--
4.1.11	Two family house	--	P	P	P	P	SP	SP	--	--	SP	SP	--	--	--	--	--	--	P	--	--	--	--
4.1.12	Yard or garage sales (3)	P	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	--
AGRICULTURAL																							
4.2.1	Commercial Greenhouse	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.2.2	Farm	P	P	P	P	P	P	P	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--
4.2.3	Greenhouses	P	P	P	P	P	P	P	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--
4.2.4	Nurseries and truck gardens	P	P	P	P	P	P	P	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--
4.2.5	Open air stand	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.2.6	Poultry or fowl Preparation	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.2.7	Public Parks/Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--
INSTITUTIONAL																							
4.3.1	Billboards/Outdoor Advertising	SP	SP	SP	SP	SP	SP	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.3.2	Cemetery	SP	SP	SP	SP	SP	SP	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.3.3	Churches and/or parish houses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--
4.3.4	Funeral homes (1)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.3.5	Hospitals and nursing homes (2)	SP	SP	SP	SP	SP	SP	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.3.6	Non-Habitable Structures, Antennas	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	--	--	--
4.3.7	Philanthropic institutions	SP	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.3.8	Private clubs, not for profit	P	P	P	P	P	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	P	--	--	--	--
4.3.9	Public buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--
4.3.10	Public libraries or museums	P	P	P	P	P	P	P	P	P	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.3.11	Schools	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--
4.3.12	Telephone exchange	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--
BUSINESS																							
4.4.1	Adult Bookstore	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.2	Adult Booth	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
4.4.3	Adult Dancing/Entertainment Establishment/Adult Cabaret	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.4	Adult Motel	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--

USES/DISTRICTS		R1	R2	R3	R4	R5	B3	B	BSBZ	CBD	LI	HI	WF1	WF1A	WF2	WF3	WF4	WS	SHCO	DPA	TO	MMTCO	MVOD
BUSINESS																							
4.4.5	Adult Motion Picture Theater	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.6	Adult Video Store	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.7	Banks (9)(10)(19)(20)	--	--	--	--	--	SP	P	P	P	SP	SP	--	--	--	--	SP	P	--	--	--	--	--
4.4.8	Banks with drive-in facilities (10)(16)(19)(20)	--	--	--	--	--	--	P	P	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.9	Boat Construction, Maintenance and Repair	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.10	Boat Yard/Boat Storage/Dry Dock	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	--	--	--
4.4.11	Clinic	--	--	--	--	--	SP	P	P	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--
4.4.12	Commercial Fishing/Fish Processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.13	Commercial Passenger Vessel Operations	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.14	Conference Center	--	--	--	--	--	--	--	--	P	--	--	P	P	P	P	P	--	--	--	--	--	--
4.4.15	Convenience Retail (12)	--	--	--	--	--	--	P	P	P	--	--	--	--	--	--	P	--	--	P	--	--	--
4.4.16	Electronic Transmission Line/Poles/Apparatus (11)	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	P	--	--	--
4.4.17	Fish Market (12)	--	--	--	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.18	Fitness Center	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	P	--	--	--	--	--	--
4.4.18	Food service establishment(9)(17)(21)	--	--	--	--	--	--	SP	P	P	SP	SP	P	P	P	P	P	P	P	P	--	--	--
4.4.20	Gasoline and oil filling stations	--	--	--	--	--	--	SP	SP	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.21	General offices	--	--	--	--	--	P	P	P	P	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.4.22	Hotels	--	SP	SP	SP	SP	--	SP	SP	SP	SP	SP	P	P	P	--	P	P	--	--	--	--	--
4.4.23	Marina	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--
4.4.24	Marine Terminal	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.25	Marine Tourism (12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.26	Medical Marijuana Treatment Center (16)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	SP	--
	Medical Village	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P
4.4.27	Micro Brewery	--	--	--	--	--	--	--	P	P	--	--	P	P	P	P	P	P	P	P	--	--	--
4.4.28	Places of assembly for commercial recreation	--	--	--	--	--	--	SP	SP	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	--	--	--
4.4.29	Deleted																--					--	--
4.4.30	Public Boat Ramp (12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--
4.4.31	Research and Development (15)	--	--	--	--	--	--	--	--	P	--	--	SP	SP	--	SP	SP	--	--	--	--	--	--
4.4.32	Retail Stores (9) (14)(21)	--	--	--	--	--	--	P	P	P	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.4.33	Retail trade custom work shop (8)(9)(14)(19)(20)	--	--	--	--	--	--	P	P	P	SP	SP	P	P	P	P	P	P	P	--	--	--	--
4.4.34	Sales room for motor vehicles	--	--	--	--	--	--	P	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.35	Sexual Encounter Center	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--	--	--	--
4.4.36	Theater, Cinemas (Limited Seating)	--	--	--	--	--	--	SP	SP	P	SP	SP	SP	SP	SP	SP	P	SP	SP	SP		--	--
USES/DISTRICTS		R1	R2	R3	R4	R5	B3	B	BSBZ	CBD	LI	HI	WF1	WF1A	WF2	WF3	WF4	WS	SHCO	DPA	TO (13)	MMTCO	MVOD
BUSINESS																							
4.4.37	Transit Facility	--	--	--	--	--	--	--	--	P	--	--	SP	SP	--	SP	SP	--	--	--	--	--	--
4.4.38	Water-Dependent Marine Industrial Use	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
4.4.39	Yacht Club	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	--	--	--	--	--	--
4.4.40	Medical Village	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P
4.4.41	Mobile Food Vehicle	--	--	--	--	--	SP	--	SP	SP	SP	SP	SP	SP	SP	SP	--	--	--	--	--	--	--
INDUSTRIAL																							
4.5.1	Auto Repair/Body Shop	--	--	--	--	--	--	--	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.5.2	Contractor's storage yard	--	--	--	--	--	--	SP	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--
4.5.3	Fuel storage	--	--	--	--	--	--	--	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--

4.5.4	Heavy manufacturing	--	--	--	--	--	--	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--	--
4.5.5	Ice establishment	--	--	--	--	--	--	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--	--
4.5.6	Light Manufacturing	--	--	--	--	--	--	--	--	P	P	--	--	--	SP	--	--	--	--	--	--	--	--
4.5.7	Marine Industry	--	--	--	--	--	--	--	--	--	--	--	--	--	SP	--	--	--	--	--	--	--	--
4.5.8	Shoe factories	--	--	--	--	--	--	--	--	SP	SP	--	--	--	--	--	--	--	--	--	--	--	--

FOOTNOTES

- (1) Special Permit required from Board of Appeals.
- (2) Special Permit required from the City Council for all new projects or additions and expansions to existing facilities.
- (3) Yard or garage sales require a permit from the City Council Committee on Licenses.
- (4) Deleted.
- (5) Those requirements and restrictions relative to bulk and height of structure, yard sizes, setbacks, open space and building coverage as are presently applicable to a single residence.
- (6) Deleted.
- (7) Multifamily residential high rise is permitted in WF1, WF1A, WF2, WF3, WF4, WS, and SHCO Districts in projects with less than three hundred residential units so long as at least 75% of the first floor of all buildings on primary streets, including Route 1A Lynnway, are dedicated to retail uses. Any project with more than three hundred residential units in WF1, WF1A, WF2, WF3, WS, and SHCO Districts shall not be required to have any percentage of retail uses on any floor of the building.
- (8) Multi-family residential and high rise uses are only permitted above the second floor in the Waterfront 2 District.
- (9) No drive-thrus, drive-ins, and/or twenty-four (24) hour business uses, in whole or in part, are permitted in the CBD, WF1, WF1A, WF2, WF3, WS and SHCO Districts. Food Service Establishment with limited on-premises seating is permitted in the DPA District but shall not occupy more than 25% of the lot.

- (10) The term shall not include check cashing stores or businesses, pawn shops, or money wire/transfer businesses.
- (11) Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166 shall be exempt from the dimensional requirements for the WF1, WF1A, WF2, WF3, and WF4 Districts.
- (12) Such uses shall not exceed more than 25% of the lot area.
- (13) Uses indicated as being permitted in the underlying zoning district(s) in Section 4.4 are permitted in the Tideland Overlay (TO) District; however, non-water dependent uses of private tenancy are not permitted on the ground floor of buildings within 100 feet of the high water mark.
- (14) No single retail or retail trade use shall consist of more than 5,000 square feet WF1, WF1A, WF2, WF3, WS, and SHCO Districts.
- (15) Research and Development shall be permitted in the Central Business District so long as such research and development (a) is not dangerous by reason of hazard from fire and explosion; (b) not offensive, detrimental, injurious, noxious or hazardous by reason of causing dust, smoke, odor, fumes, radiation, groundwater, discharge, noise, vibration, traffic congestion or other nuisance; and (c) is compatible with adjacent non-industrial uses.
- (16) Deleted.
- (17) No Food Service Establishment which serves alcoholic beverages of any kind shall be located within fifty (50) feet of private or public school with grades eight (8) through twelve (12) in the CBD without a special permit from the Lynn City Council.
- (18) Residential units with greater than two bedrooms shall be allowed in not more than ten (10%) percent of all residential dwellings in the CBD and BSBZ.
- (19) In a WF4 District, multi-family residential high rise buildings are permitted and may have, but are not required to have, retail and retail trade service uses on ground floor.
- (20) In a WF4 District, the maximum amount of square feet of retail and retail trade service uses shall not exceed, in the aggregate, an amount equal to the total area of the ground floor of the multi-family residential high rise buildings (the "Ground Floor Square Footage") located on the lot. To the extent Ground Floor Square Footage is not fully utilized for retail and retail trade service uses in any building located on the lot, the available Ground Floor Square Footage may be reallocated for retail and retail trade service uses located in one or more free standing buildings located on the lot.
- (21) A Food Service Establishment as defined in this Ordinance shall be allowed as an Accessory Use within a Retail Store, allowed by right under this Ordinance, with

greater than 40,000 square feet of retail space devoted to the sales of goods to the public.

SECTION 5

CLASSIFICATION OF USES

5.1 RESIDENTIAL USES

5.1.1 Apartment House: A dwelling for more than two families under one roof. All apartment houses over three stories shall be provided with elevator service.

5.1.2 Artist Work/Living Space: A dwelling unit where up to fifty (50%) of the gross floor area can be used for the production, display, and sale of various forms of arts or crafts. Such buildings reused with Artist Work/Live Work Space above the ground floor may provide direct access to associated showrooms and galleries on the street level.

5.1.3 Assisted Living Facilities: A managed residential community, operating under the provisions of M.G.L. Chapter 19D. Further, said facilities may provide assistance with activities of daily living, together with meal services, housekeeping services, social and recreational activities and personal care services, in a group setting for persons who require help or assistance with activities of daily living but do not require full-time nursing care.

5.1.4 Boarding or Lodging House: A building in which three or more persons, either individually or as families, are housed for hire in individual rooms, with or without meals, and shall include tourist houses.

5.1.5 Group Residences: As defined in Section 424.1 of the Massachusetts State Building Code.

5.1.6 Mixed Use Street Level: A building that has a street-floor level that is devoted to allowed nonresidential uses as otherwise permitted and all levels above the street-floor level devoted to allowed residential uses.

Further, accessory uses permitted by the Lynn Zone Ordinance shall also be allowed in all permitted residential units. Further, accessory uses related to residential uses located on the floors above the ground floor shall be permitted in all below grade areas, and on the ground floor if they do not occupy any portion of the building that directly abuts any public street or right of way. Allowed nonresidential uses are permitted below the ground level in the R3 District provided the structure has more than fifty residential units.

5.1.7 Mixed Use Above Street Level: A building that has a street-floor level that is devoted to allowed nonresidential uses as otherwise permitted and at least one level devoted to allowed residential uses.

Further, accessory uses permitted by the Lynn Zone Ordinance shall also be allowed in all permitted residential units. Further, accessory uses related to residential uses located on the floors above the ground floor shall be permitted in all below grade areas, and on the ground floor if they

do not occupy any portion of the building that directly abuts any public street or right of way. ”

- 5.1.8 Multi-Family Residential High Rise: A residential apartment building that has a height in excess of five stories or sixty feet except for the WF1, WF1A, WF2, WF3, WF4 Districts where the minimum height shall be 3 stories or 36 feet.
- 5.1.9 One Family Detached House: A detached dwelling designed and occupied by a single family.
- 5.1.10 Row House: Dwellings for one or two families each in a connected row of three or more houses, each two houses separated by a fire proof division with no openings.
- 5.1.11 Two Family House: A detached dwelling designed for and occupied by two families.
- 5.1.12 Yard or Garage Sales: The conducting of "yard" sales by the resident owner or a tenant with the permission of the owner no more than twice within a calendar year and with a permit received from the City Council Committee on Licenses. The numerical restriction shall not apply to non-profit organizations.
- 5.2 AGRICULTURE
- 5.2.1 Commercial Greenhouses: A greenhouse, salesroom or stand for the sale of nursery, garden or farm products.
- 5.2.2 Farm: Any parcel of land over five acres which is used in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures. It excludes the raising of fur bearing animals, piggeries, riding stable, and dog kennels.
- 5.2.3 Greenhouses: A structure designed for the propagation of plant and plant materials incidental to, and accessory to, the principal use of the lot or building, and not used for retail or wholesale trade purposes.
- 5.2.4 Nurseries and Truck Gardens: Any parcel of land which is used in the raising of agricultural products. It includes necessary farm structures, and excludes the raising of livestock, poultry, fur bearing animals, riding stables, and dog kennels.
- 5.2.5 Open Air Stand: The use of any premises for the sale of goods, wares or merchandise from an open stand which is not an accessory to or part of any building on said premises.
- 5.2.6 Poultry/Preparation: A building used for the slaughter and preparation of poultry or fowl for retail or wholesale trade purposes.

5.2.7 Park/Open Space: Area dedicated to recreational uses for the public. The term shall include, but not be limited to, land to protect existing and future well fields, aquifers, and recharge areas, watershed land, agricultural land, grasslands, fields, fresh and salt water marshes and other wetlands, ocean river, stream, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

5.3 INSTITUTIONAL

5.3.1 Billboards/Outdoor Advertising: Signs governed by Massachusetts General Laws Chapter 16.

5.3.2 Cemetery: Public and private facilities or land used for burials or cremations.

5.3.3 Churches and/or Parish Houses: Use of land, buildings and structures for public worship carried on by a recognized religious sect or denomination which may include religious instruction, maintenance of a convent, parish house and similar facility and activities whose purpose is substantially related to furthering the beliefs of such sect or denomination.

5.3.4 Funeral homes: An establishment where the dead are prepared for burial or cremation and where funeral services are held.

5.3.5 Hospitals and Nursing Homes: A public or private facility for the care and treatment of ill or injured people, with all traditional and incidental support facilities including parking facilities.

5.3.6 Non-Habitable Structures, Antennas: A building, pole, monopole, wire, structure, cargo container, antenna, or the like which is not to be used for human occupancy or human habitation which is greater than forty (40) feet in height.

5.3.7 Philanthropic Institutions: Charitable or non-profit library, museum, art gallery or other similar use.

5.3.8 Private Clubs, not for Profit: A building or buildings used to house a non-profit social, fraternal or service organization which is not an adjunct to or operated as or in conjunction with a public tavern, café or similar place of business.

5.3.9 Public Buildings: Buildings used for local, county, State or Federal government purposes.

5.3.10 Public Libraries or Museums: Use of land, buildings or structures for providing facilities for research, public education, and public display for a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic.

5.3.11 Schools: Use of land, building or structures for providing learning a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a recognized religious sect or denomination, or by a non-profit educational entity which may include athletic facilities, dormitories, administrative offices and similar facilities and activities whose purpose is substantially related to further learning.

5.3.12 Telephone Exchange (with no service yard or garage): Underground facilities or above ground structures for telephone communication purposes.

5.4 BUSINESS USES

5.4.1 Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31. For the purpose of this ordinance, the term "substantial or significant portion" means that more than 10 percent of the total floor area or stock is devoted to the items listed above.

5.4.2 Adult Booth: An enclosed or partitioned area inside an adult oriented establishment which is: (I) designed or used for the viewing or listening of adult material by one (1) or more persons and (II) is accessible to any person, regardless of whether a fee is charged for access. The term, "Adult Booth" includes, but is not limited to a "peep show" booth or other booth used to view or listen to adult material (including, but not limited to, videotapes, audiotapes, films, CD-ROMs, DVDs or internet access).

5.4.3 Adult Dancing/Entertainment Establishments: An establishment, including, but not limited to a restaurant (eating and drinking establishments), lounge, dance hall, nightclub or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, independent contractors or other customers perform dance routines and/or display or expose specified anatomical areas, offered as adult oriented entertainment for viewing by patrons or spectators on the premises and characterized by the emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

5.4.4 Adult Motel: A motel or similar establishment with the word "adult" or otherwise that advertised the presentation of adult material, offering public accommodations for any form or consideration which provides patrons with closed circuit television transmission, internet access, films, motion pictures, video cassettes, slides, CD-ROMs, DVDs or other photographic reproductions for the primary purpose of sexual gratification or as related to specified sexual activities.

- 5.4.5 Adult Motion Picture Theater: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31. This definition includes, but is not limited to, adult arcade, adult mini-motion picture theater, adult booth(s), adult drive-in theaters.
- 5.4.6 Adult Video Store: An establishment having as a substantial or significant portion (more than 10%) of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31.
- 5.4.7 Banks: Bank, loan agency, or similar financial facility.
- 5.4.8 Banks with drive-in facilities: Same as 5.4.7, but with a drive-up teller.
- 5.4.9 Boat Construction, Maintenance, and Repair: A facility or business which constructs, maintains, and/or repairs boats.
- 5.4.10 Boat Yard/Boat Storage/Dry Dock: An area located upon land where boats are stored, loaded, unloaded, and repaired.
- 5.4.11 Clinic: Four or more doctors, dentists, or similar related occupations or entity however organized, whether conducted for profit or not for profit, whether or not it is advertised, announced, established, or maintained for the purpose of providing ambulatory, medical, surgical, dental, physical, rehabilitation, or mental health services.
- 5.4.12 Commercial Passenger Vessel Operations: A facility or business which transports passengers via boating vessels, ships, or boats on a commercial basis.
- 5.4.13 Commercial Fishing/Fish Processing: The business of catching and preparing seafood for human consumption on a commercial as opposed to a retail basis.
- 5.4.14 Conference Center: A center where conferences are held.
- 5.4.15 Convenience Retail: Neighborhood grocery, dry goods, news store, and variety store not exceeding 4,000 square feet in floor area.
- 5.4.16 Mixed Use Street Level: A building that has a street floor level that is devoted to allowed nonresidential uses as otherwise permitted and all levels above the street floor level devoted to residential uses.

Further, accessory uses permitted by the Lynn Zone Ordinance shall also be allowed in all permitted residential units. Further, accessory uses related to residential uses located on the floors above the ground floor shall be permitted in all below grade areas, and on the ground floor if they

do not occupy any portion of the building that directly abuts any public street or right of way.

5.4.17 Mixed Use Above Street Level: A building that has a street floor level that is devoted to allowed nonresidential uses as otherwise permitted and at least one level devoted to allowed residential uses.

Further, accessory uses permitted by the Lynn Zone Ordinance shall also be allowed in all permitted residential units. Further, accessory uses related to residential uses located on the floors above the ground floor shall be permitted in all below grade areas, and on the ground floor if they do not occupy any portion of the building that directly abuts any public street or right of way.

5.4.18 Electric Transmission Lines/Poles/Apparatus: Electric lines, poles, and apparatus maintained by Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166.

5.4.19 Artist/Living Work Space: A dwelling where up to fifty (50%) of the gross floor area can be used for production, display and sale of various forms of arts or crafts. Such buildings reused with Artist Work/Live Work space above the ground floor may provide direct access to associated showrooms and galleries on the street level.

5.4.20 Fish Market: A retail facility which sells seafood on a retail or commercial basis.

5.4.21 Fitness Center: A health club or gym where members of the public may utilize

5.4.22 Food Service Establishment: Any place where food is prepared. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes, but it is not limited to, restaurants, sandwich shops, take-out food operations, delicatessens, food preparation operations, and catering operations. The term does not include residential kitchens (except as provided in 105 CMR 590.028) retail food stores, supply vehicles or kitchens in churches, social clubs or fraternal organizations.

5.4.23 Gasoline and Oil Filling Stations: Sale of motor vehicle fuel, related products and general engine repair services, including self-service gas stations, subject to Section 8.3.8.

5.4.24 General Offices: A building or portion of a building in which work of a predominantly administrative, professional, or clerical nature is performed. There are no walk-in retail consumer sales nor services nor production/manufacture of any physical products for sale.

5.4.25 Hotels: Commercial establishments offering lodging and usually meals to the general public.

- 5.4.26 Marina: A boat basin offering dockage and other service for small craft.
- 5.4.27 Marine Terminal: A facility or establishment dedicated to the movement of persons and goods from one place or another via waterborne transportation. Such a use may include, among other, facilities for transfer of persons and goods between ship and shore and the storage of bulk materials and other goods transported in waterborne commerce.
- 5.4.28 Marine Tourism: A business or facility providing maritime and/or nautical travel on a commercial basis for leisure, recreation, and/or business purposes.
- 5.4.29 Medical Village: Use of land for medical services, urgent care, emergency care, medical and dental clinics, medical and dental offices, medical laboratories and medical research and development for the purpose of providing ambulatory, medical, surgical, dental, physical, rehabilitation, or mental health services, in-patient pharmacy and other ancillary medical services.
- 5.4.30 Micro-Brewery: (May also be referred to brewpub, pub brewery, nanobrewery, farmer brewery, or microbrewery). An establishment that manufactures to sell up to 60,000 barrels per year and sell to licensed wholesalers, beer produced by it. A Micro Brewery may sell beer it manufactures to licensed retailers and may have multiple brewing facilities. The combined production of all brewing facilities shall be used to determine the 60,000 limit for a Micro Brewer. A Micro Brewer may sell beer it manufactures to consumers for on-premises or off-premises consumption from the brewery premises without any approval from the Lynn City Council. A Microbrewer must obtain all other required Federal or State licenses.
- 5.4.31 Mobile Food Vehicle: A food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared and served for individual portion service, such as a mobile food kitchen; provided however that a mobile food vehicle shall not be considered a food establishment for purposes of Section 5.4.22 of the zoning ordinance.
- 5.4.32 Places of Assembly for Commercial Recreation: Facilities such as theatres, cinemas, bowling alleys, carnivals, circus, boat rides, shooting galleries, pool or billiards parlors and similar commercial amusement places, but excluding Theaters, Cinemas (Limited Seating).
- 5.4.33 Public Boat Ramp: A structure which provides access to the ocean for boats offered to the general public.
- 5.4.34 Research and Development: Any one or more uses for the investigation, development, scientific and laboratory and similar uses and any related activities. The term shall also include limited manufacturing provided the

(1) manufacturing activity is related to research uses; (2) no manufacturing activity customarily occurs within 50 feet of the property line, and (3) substantially all manufacturing activity occurs inside of the buildings.

- 5.4.35 Retail Stores: Drugstore, book, stationary, gift shop, antique shop, florist, television and radio sales, hardware store, news store, neighborhood grocery, dry goods and variety store or similar retail facility. Retail stores shall also include Medical Cannabis Treatment Centers which are establishments that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses or administers cannabis or products containing cannabis and/or related supplies for ostensibly medical purposes.
- 5.4.36 Retail Trade Custom Work Shop: Retail activities requiring the assembly and manufacture of articles to be sold on premises such as dress shops, tailor shops, etc. The assembly and/or manufacturing activities shall be accessory to the principal use and shall be 10 percent or less of the total floor area.
- 5.4.37 Salesrooms for Motor Vehicles: Salesroom and related dealership facilities, including open air display for automobiles, boats, motorcycles, farm or garden implements or similar light motor vehicles.
- 5.4.38 Sexual Encounter Center: An establishment whose primary or accessory business is the provision on premises where customers either congregate, associate, or consort with employees, agents, servants, independent contractors or other customers who engage in specified sexual activities in the presence of such customers or who display specified anatomical areas in the presence of such customers with the intent of providing sexual stimulation or sexual gratification appealing to adult sexual interests.
- 5.4.39 Theater, Cinemas (Limited Seating): Indoor movie and/or live-action performance venues for the viewing by the general public with or without cost with a total seating capacity of under 1,000 seats.
- 5.4.40 Transit Facility: A facility or establishment dedicated to the movement of persons and goods from one place to another, including bus stations, train stations, and water shuttle stations.
- 5.4.41 Water-Dependent Marine Industrial Use: Manufacturing facilities relying primarily on the bulk receipt or shipment of goods by waterborne transportation.
- 5.4.42 Yacht Club: An organization of yachtsmen and yachtswomen for the purpose of encouraging and directing the sport of yachting.

5.5 INDUSTRIAL USES

- 5.5.1 Auto Repair/Body Shops: An establishment where the principal service to the repair and painting of automobiles or similar vehicles, subject to Section 8.3.8.
- 5.5.2 Contractor's Yard/Storage Yard: A facility or building such as a lumber yard, contractor's yard, with open air storage capacity for the operation of a construction contracting business and/or the sale at wholesale or retail of materials (not including a junkyard), provided that all operations shall be such as to confine to the premises dust, noise, odors, and other objectionable effects.
- 5.5.3 Fuel Storage: A facility or structure to store fuel oils or derivatives.
- 5.5.4 Heavy Manufacturing: A facility or building for the manufacture of various products or materials such as asphalt, ore refining, dyestuff, explosives, fish packing, paints, oil, inks, rubber, tanning and activities of similar nature (including kennels for the housing and training of racing dogs and junkyards).
- 5.5.5 Ice Establishments: A facility or establishment for the production of ice for commercial purposes.
- 5.5.6 Light Manufacturing: Research or testing laboratory, printing plant, manufacturing establishment or other assembly, packaging, finishing or processing use, provided that all operations shall be such as to confine disturbing smoke fumes, dust, odors, vibrations, and noise to the premises.
- 5.5.7 Marine Industry: Industries related to the control of maritime traffic, harbor management/improvements and fisheries.
- 5.5.8 Shoe factories: A facility or building for the production, assembly and transshipment of footwear.

SECTION 6

ACCESSORY USES

6.1

APPLICABILITY

Accessory uses shall be permitted only on the same lot building to which they are accessory. All accessory uses shall be such only as they do not alter the character of the premises on which they are located or impair the neighborhood.

PRIVATE GARAGE

A private garage for the use of an occupant shall be permitted as an accessory use with each dwelling in a residential district.

6.2

ACCESSORY MANUFACTURE

Where manufacturing of any kind is allowed as an accessory use, it shall be restricted to such light manufacturing as is incidental to a permitted use and where the product is customarily sold on the premises by the producer to the consumer.

6.3

HOME OCCUPATIONS

An occupation, business, trade, service or profession which is subordinate to and conducted in a residential dwelling unit or in a building or other structure accessory thereto, by the owner or lessee thereof, is permitted as of right or by special permit as follows:

6.4.1

HOME OCCUPATIONS AS OF RIGHT

An occupation, business, trade, service or profession which is subordinate to and customarily associated with the principal residential use of the premises may be engaged in as an accessory use by the owner of that dwelling as of right, provided all of the following conditions shall be satisfied.

- a. The occupation, business, trade, service or profession shall be carried out: (1) wholly within the principal residential dwelling unit; (2) within a building or other existing structure accessory thereto which has been in existence at least five (5) years without extension or alteration thereof, from the time such use commences.
- b. Not more than twenty-five percent of the gross square footage of the residence including any qualified accessory structures, shall be used in the home occupation, business, trade, service or profession.
- c. The building or premises occupied or used thereof shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the operation of said occupation, business, trade, service or profession, which shall include, but not be limited to, the exterior appearance of said building or premises, emissions of odor, gas, smoke, dust, noise, electrical disturbance, parking, lighting, visitation, traffic, nuisance or in any other way as determined solely by the Lynn City Council.
- d. There shall be no additional traffic generated by the home occupation, business, trade, service or profession.
- e. A proposed occupation, business, trade, service or professional shall apply for a business certificate and occupancy permit and shall not commence with said occupation, business, trade, service or professional prior to being granted such business certificate and occupancy permit. In the event a proposed occupation, business, trade,

service or professional is being requested by lessee and not the owner of record of the premises, a signed statement of the owner of record must be attached to the application for such occupancy permit stating that the said owner of record authorizes the proposed occupation, business, trade, service or profession.

- f. There shall be no display of goods or wares visible from the street or sale of merchandise from the premises.
- g. Any such building shall include no feature of design not customary in buildings for residential use and shall be in keeping with the character of the neighborhood.
- h. No exterior storage of materials, and no other exterior indication of the home occupation, business, trade, service or profession, or other variation from the residential character of the premises, shall take place.
- i. No employee of the occupation, business, trade, service or profession who is not a member of the household, shall be present on the premises in the home occupation at any time.
- j. The occupation, business, trade, service, or profession shall not allow patients, clients, customers, salespersons, or any other non-resident conducting business or the like to be present on the premises at any time.
- k. There shall be no exterior posting of signs, exterior displays, or displays on the interior than can be seen from the exterior or other advertising devices.
- l. No parking of vehicles or visitation generated by the occupation, business, trade, service or profession shall be permitted other than the personal vehicles of members of the household and provided said vehicles are in the nature of vehicles designed for personal use, and not commercial use.
- m. It is the specific intent of this section that no occupation, business, trade, service, or profession authorized under this section be visible from outside the premises or in any other way adversely affect any abutting resident or neighbor in the vicinity, and any such occupation, business, trade, service or profession that is visible or in any other way adversely affects any abutting resident or neighbor may be deemed a violation of this section.
- n. The following home occupations shall be specifically excluded under the section: Massage Parlors, Autobody/Autobody Part Sales and Repairs. Physician's Office.

6.4.2

HOME OCCUPATIONS BY SPECIAL PERMIT

Any homeowner looking to establish a home occupation not in compliance with Section 6.4.1 shall be required to obtain a Special Permit from the Lynn City Council.

6.4.3
MULTI-FAMILY/
RETAIL

In multi-family residential buildings with Multi-Family/sixty units or more, one newsstand, barbershop, retail beauty salon laundry and dry-cleaning service center, and dining room for occupants thereof when conducted and entered only from within the building where no signs advertising the same are visible from the outside of the building.

In a WF4 District, clubhouses, pools, fitness centers, private clubs, private parks, food services, sales/leasing realty offices, storage facilities or grocery/commissaries, primarily to serve the residents of the multi-family housing component on the use, are also permitted as accessory uses.

6.4.4
YARD SALES

The conducting of "Yard" sales by the resident owner or a tenant with permission of the owner no more than twice within a calendar year, but only after requesting and receiving a permit from the City Council Committee on Licenses. Non-profit organizations may apply not more than four times a year. An alternate date, such as a rain date, shall be submitted with each application. The permit shall not exceed three (3) days. The fee for the permit shall be ten dollars (\$10.00). Violation of this Section shall be punishable by a fine of twenty-five dollars (\$25.00) per day per violation. Applications will be supplied to the City Council's Office and permits may be obtained at the City Clerk's Office.

6.4.5
SIGNS

In Single Residence Districts, real estate signs containing not over nine square feet of surface and advertising the sale or rental of only the premises on which they are located are allowed, and bulletin boards in connection with private clubs (not for profit), and government buildings or properties.

6.4.6
ACCESSORY
STRUCTURE

No accessory structure, other than swimming pool, or attached open deck, shall be located in the side yard. No accessory structure shall be located less than three (3) feet from a property line or six (6) feet from any other structure located on or off the property. Detached accessory structures shall be limited in height to one story or fifteen (15) feet from average grade to the highest roof. Attached or detached open deck shall be limited in height to four (4) feet.

6.4.7
FOOD SERVICE
ESTABLISHMENTS

A Food Service Establishment as defined in this Ordinance shall be allowed as an Accessory Use within a Retail Store, allowed by right under this Ordinance, with greater than 40,000 square feet of retail space devoted to the sales of goods to the public.

SECTION 7

NON-CONFORMING USES

7.1.1. CONTINUED USE

Any building or part of building or any land which at the time of adoption of this ordinance is being put to a non-conforming use may continue to be used for the same non-conforming purpose.

The provisions of this Ordinance shall not apply to existing buildings or structures or to the existing use of any building, structure or premises, but it shall apply to any alteration of a building or structure to provide for its use for a purpose, or in a manner, substantially different from the use in which it was put before alteration.

7.2. ABANDONMENT

When a non-conforming use has been abandoned, it shall not be reestablished and future use shall be in conformity with this Ordinance.

7.3 DISCONTINUANCE

When a non-conforming use has been discontinued for a period of one year, it shall not be re-established and future use shall be in conformity with this ordinance.

Further, no building or structure with regard to which a nonconforming use has been or is superseded by a use permitted in the district in which it is located, shall again be devoted to any use prohibited in the district involved.

7.4 ALTERATION

No building devoted to a non-conforming use shall be altered, except as permitted by the Board of Appeals, or except as ordered by the Building Commissioner, to make it safe, or extended nor shall it in any ten year period be repaired to more than fifty (50) percent of its replacement value at the time of the last application for a permit to repair.

7.5 DAMAGED OR DESTROYED

Any non-conforming building or structure damaged or destroyed by fire, flood, earthquake or Act of God may be reconstructed within 12 months and used as before such calamity. Nothing shall prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared unsafe by the Building Commissioner.

7.6 GRANITE REMOVAL

In residence districts, the removal of sod, loam, clay, sand, gravel, quarried stone, from any land or premises, except when incidental to or in connection with the construction thereon of a building for which a permit has been issued, shall be deemed a non-conforming use of land, but may be permitted by the Board of Appeals on petition therefore, after public notice and hearing and under such conditions as the Board of Appeals may impose and make part of the permit.

7.7
Law
NON-CONFORM-
ING BUILDING

If a plan of land not requiring approval under the Subdivision Control is either endorsed to that effect or caused to be so endorsed by the Planning

Board as provided in Massachusetts General Laws, Chapter 41, Section 81P, any building or part of building then situated on a lot depicted in such a plan which, as shown in such a plan, would have complied at the time of its construction with the then existing minimum area, frontage, width and depth requirements, if any, of the City of Lynn, shall in regard to each of said minimum zoning requirements, be entitled to full non-conforming use status under this section if, because of new lot boundaries adopted in such a plan, such building or part of building, as shown in such a plan, is not in compliance with this Ordinance.

SECTION 8

DIMENSIONAL REGULATIONS

8.1
DIMENSIONS

Minimum lot area frontage, minimum front, side and rear yards, maximum height, maximum building area, and minimum open space shall be proscribed in Section 8 Table of Dimensional Regulations.

TABLE OF DIMENSIONAL REGULATIONS

TABLE OF DIMENSIONAL REQUIREMENTS

Zoning District	Min. lot area (sf)	Min. Frontage (ft)	Min. yards (ft) (5)			Max. Stories	Max. Height (ft) (11)	Max. Building Area (%)	Min Height (ft) and stories (11)	Min. open space and landscaping requirement (%)	Floor Area Ratio (Max)
			Front	Sides	Rear						
Single Residence	10,000	75	(8) (10)	7.5	15	2.5	35	30	---	---	---
General Residence	12,000	75	(8) (10)	7.5	15	2.5	35	30	---	---	---
Apartment House I	15,000	50	(8) (10)	(1)	15	4.0	40	40	---	10	---
Apartment House II	15,000	50	(8) (10)	(1)	15	5.0	60	40	---	10	---
High Rise Residence	15,000	50	(2) (8) (10)	(3) (10)	15 (4)	5.0	60 (6)	40	---	---	---
Business III	---	50	(8) (10)	---	---	2.5	35	---	---	---	---
Business	---	50	(8) (10)	(5)	---	5.0	60 (6)	---	---	---	---
Boston Street Business Zone	20,000	50	---		(19)	5.0	60 (6)	---	---	---	---
Central Business District	---	50	0	0	0	10.0	120	---	36 feet or 3 stories	---	---
Light Industrial	---	50	(8) (10)	(5)	---	5.0	60 (6)	70	---	---	---
Heavy Industrial	---	50	(8) (10)	(5)	---	5.0	60 (6)	70	---	---	---
WF1 (17)	40,000	50	10 (2)	50 total w/15 min. on each side yard	15	20	240	70	36 feet or 3 stories	35	2.8 (12)

			Min. yards (ft) (5)								
Zoning District	Min. lot area (sf)	Min. Frontage (ft)	Front	Sides	Rear	Max. Stories	Max. Height (ft) (11)	Max. Building Area (%)	Min Height (ft) and stories (11)	Min. open space and landscaping requirement (%)	Floor Area Ratio (Max)
WF1A	40,000	50	10 (2)	50 total w/15 min. on each side yard	15	8	100	70	36 feet or 3 stories	35	2.8 (12)
WF2	40,000	50	10 (2)	50 total w/15 min. on each side yard	15	5	60	70	48 feet or 4 stories	35	2.8 (12)
WF3	40,000	50	10 (2)	50 total w/15 min. on each side yard	15	20	240	70	36 feet or 3 stories	35	2.8 (12)
WF4 (20) (21) (22)	40,000	50	10	0	0	26	280 feet or 26 stories (6)	70%	12 feet or 1 story	30%	2.8
WS	15,000	50	0	0 (14) or 7.5 (5)	15	5	60	70	24 feet or 2 stories	10	2.8 (12)
SHCO	15,000	50	10 (2)	7.5	15	3	36	70	24 feet or 2 stories	10	2.8 (12)
DPA	40,000	50	10 (2)	50 total w/15 min. on each side	15	4	48	80	12 feet or 1 story	10	2.8 (12)
TO	40,000	50	10 (2)	50 total w/15 min. on each side	15	Per underlying district (15)	Per underlying district (15)	50 or per underlying district	36 feet or 3 stories	50 or per underlying district (16)	2.8 (12)

FOOTNOTES

- (1) For apartment houses, side yards shall be five (5) feet wide for the first story and two (2) feet shall be added for each additional story, but the side yard may be omitted if a fire wall is constructed on the lot line. Such firewall may contain no legal windows.
- (2) If the height of the building on the lot exceeds 3 stories, then for each additional story of the building height, there shall be an additional three (3) feet added to the front yard.
- (3) For each building less than four (4) stories or forty (40) feet, the lot shall have two (2) side yards, the minimum width of either shall never be less than ten (10) feet. Each corner lot shall have a side building line at least fifteen (15) feet from a parallel to the side street line to provide a side yard along the street side. If the height of the building on the lot exceeds three (3) stories, then for each additional story of the building height, there shall be an additional four (4) feet added to each side yard.
- (4) For each building less than four (4) stories or forty (40) feet, the lot shall have a rear yard of at least twenty (20) feet in average depth with a minimum depth of fifteen (15) feet. If the height of the building on the lot exceeds three (3) stories, then for each additional story of the building height, there shall be an additional four (4) feet added to the rear yard average.
- (5) In all districts there shall be for every one or two family or semi-detached house, and in single residence districts for all building and for every building on a business or industrial lot adjoining, on the street line, a lot zoned or used for single residence, general residence or apartment house districts, on a lot with frontage of fifty (50) feet or over, a side yard along each lot line, other than a street line or a rear line, the minimum width of which shall never be less than seven and one-half (7-1/2) feet of clear space, measured from the lot line.

Where the frontage is less than fifty (50) feet, the Board of Appeals shall adjust with due regard to the right of adjoining properties.
- (6) All buildings over the 60-foot height maximum require a Special Permit, except in any districts in which buildings over the 60-foot maximum are allowed by right according to the Table of Dimensional Requirements in Section 8.1.
- (7) The open space required in the case of industrial buildings shall be provided in the rear or in part on the sides, so as in the opinion of the Building Commissioner, properly to insure the lighting and ventilation of the buildings.

- (8) Front Yards: In single residence and general residence and apartment house districts (and on any business or industrial lots, only in the manner, however, as provided by footnote 10, of the Table of Dimensional Regulations) between every building and each line or lines of the way or ways on which the building abuts, there shall be a front yard of clear depth of at least ten (10) feet except that on any way which shall hereafter be widened by public authority the said depth of ten (10) feet shall after such widening be measured from the same line as it would have been measured from the same line as it would have been had such widening not been made, and no dwelling or structure shall be moved, altered, reconstructed or enlarged so that a front yard less in clear depth shall result.

Projecting eaves and uncovered steps shall not be considered as coming within the meaning of this section, but fire escapes whether covered or uncovered, shall be considered as coming within the meaning of all the provisions of Section 8.

Dwelling erected less than ten feet from a way before June 29, 1926, may be extended upward and/or to either side, but no closer to the way than the existing front of the building.

- (9) In all districts there shall be a yard in the rear of every building used for dwelling purposes the minimum depth of which shall never be less than fifteen (15) feet. This provision need not apply to buildings on lots which back on parks, parkways, public lands, railways or waterfronts. Not over thirty-five (35) percent of the area of a rear yard may be covered with an accessory building or buildings, except that no accessory buildings or buildings shall be permitted or allowed on lots used for Restricted Type Apartment House.
- (10) A building on a business or industrial lot adjoining, on the street line, a lot zoned or used for single residence, general residence or apartment house district, shall have a front yard or front space equal to the front yard or front space of such abutting or adjoining residential or apartment house lot, but such front yard or front space shall not be required to be more than ten (10) feet from the inside sidewalk line, and between every such building and each side lot line, other than the street or rear line, there shall be a side yard, the minimum width of which shall never be less than seven and one-half (7-1/2) feet of clear space, measured from the side of the building to the side of the adjoining properties.
- (11) The limitations of height in feet as measured perpendicular from the building line shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, and other accessory features usually carried above roofs, nor to towers or spires of churches and other building, if such features are in no way designed for habitation or occupancy.
- (12) All parking areas and structures shall not be included in the calculation of Floor Area Ratio.

- (13) Public Service Corporations who transmit electricity and are regulated by M.G.L. c. 164 and 166 shall be exempt from the dimensional requirements for the WF1, WF1A, WF2, WF3 and WF4 Districts.
- (14) Zero-foot side yard setbacks shall be allowable for single contiguous buildings which span more than one lot or if a firewall is constructed on the lot line. The firewall shall have no legal windows. All other buildings shall require a 7.5-foot side yard setback.
- (15) Buildings containing non-water dependent use(s) in the TO District shall not exceed 55 feet in height within 100 feet landward of the high water mark and shall not exceed a height of 55 plus one-half foot (.5 feet) for each additional foot of separation from the high water mark unless said building containing non-water dependent use(s) is set back, in its entirety, at least 200 feet from the high water mark – in which case, the building height shall not exceed 55 feet plus one and one-half feet (1.5 feet) for each additional foot of separation greater than 200 feet from the high water mark up to a maximum height permitted in the underlying district.
- (16) Within the TO District, noncontiguous lots may be combined for the purposes of meeting the Maximum Building Area and Minimum Open Space requirements, provided all lands combined to meet the requirements are located within the TO District and provided that all noncontiguous lands to be combined with a “base lot” so as to comply with the Minimum Open Space requirements are located within areas delineated as “parks and promenades” in Figure 9 of the Lynn Municipal Harbor Plan provided a ratio of 1.3:1.0 (square feet of open space: square feet of building area) and contiguous areas of at least .25 acres in size and maintained by the owner as green park-like space (i.e. grassed and/or landscaped space which is owed, kept, and maintained free of trash, paved surfaces and debris and which is not used for the storage of equipment or materials for any purpose other than open space) until such time as the land is incorporated into a complete public park or promenade as depicted in Figure 9 of the Lynn Municipal Harbor Plan. For purposes of this provision, “base lot” shall mean a single lot or group of contiguous lots upon which the Building Area is to be located. Only those buildings occupied solely by water-dependent use(s) may exceed the Maximum Building Areas of 50%.
- (17) All buildings located within the WFI District are to be set back at least 200 feet from the high-water mark of the harbor. This setback does not apply to the banks of the Saugus River.
- (18) All parking spaces shall be located to the rear of the building and no more than ten (10%) percent of such parking spaces shall be permitted in the front yard of a building.
- (19) There shall be a fifteen (15) foot rear setback for any property located within fifty (50) feet of a property zoned R1, R2, R3, R4 or R5 and said setback shall be landscaped and/or greenspace.

- (20) In WF4 District, Footnote 2 shall not apply. In addition, buildings supporting accessory uses shall not be subject to minimum height requirements set forth for WF4.
- (21) In a WF4 District, rooftop equipment, including but not limited to HVAC equipment, communications antennae or related apparatus, mechanical penthouses, roof decks, canopies and observation areas, shall not be included in such building's maximum height or maximum number of stories calculations.
- (22) In a WF4 District, multiple buildings shall be permitted to be located on one lot.

8.2.

GENERAL PROVISIONS

8.2.1

UNENCLOSED
PORCHES

Unenclosed porches need not be included in determining the percentage of lot covered for the purpose of this section.

8.3

SUPPLEMENTAL DIMENSIONAL REGULATIONS

8.3.1.

DISTANCE BETWEEN
STRUCTURES REAR
YARD

In apartment house districts, there shall be no less than twenty (20) feet of clear space between the rear of one structure or building and the front of any other structure used or to be used as one- or two-family house and a clear space of not less than twenty-five (25) feet between the rear of one structure and the front of any other structure used or to be used as an apartment house, and no dwelling or structure in single residence, general residence or apartment house districts, shall be erected, moved, altered, reconstructed or enlarged so that the front yard is less in clear depth than the above named distance. For the purpose of this section, projecting eaves and uncovered steps shall not be considered as part of a structure.

Dwellings erected with a rear yard of less than 15 feet before June 29, 1926 may be extended upward and/or to either side provided that there exists 15 feet of clear space between rear of the buildings as extended and the nearest building.

8.3.2.

MINIMUM DISTANCE
BETWEEN BUILDINGS
ON ONE LOT

High Rise District--The minimum distance between multiple buildings on a lot in a single ownership, measured from the midpoint on any facing walls, shall not be less than the sum of the height of each facing wall plus twice the horizontal length of the shorter facing wall divided by six.

8.3.3.

SIDE YARD AND
BUILDING
EXTENSIONS

Dwellings erected before June 29, 1926, may be extended upward and to the rear in line with the existing side of the building, notwithstanding a side yard violation provided that there exists not less than 15 feet of a clear space between buildings on the side to be altered.

8.3.4.

COURTS

Courts shall have the following minimum dimensions:

8.3.4.1

For an outer court, six feet in width for the first story and four feet additional width for each additional story in height. Such a court shall not have a length greater than three times its width.

8.3.4.2

For an inner court, ten feet in width for the first story and five feet for each additional story of height. Such a court shall have a length of not less than twice its width. An inner court shall have an air intake at the bottom, with a cross section of at least twelve square feet, which shall be closed with a latticed or grilled door or doors, so as to allow the free passage of air.

8.3.4.3

Courts need not extend below the floor level of the part of a building used for dwelling purposes.

8.3.5

MINIMUM LIVING
SPACE

For High Rise Buildings: The minimum living space per dwelling unit shall not be less than 400 square feet measured between interior walls.

8.3.6.1.

APARTMENT HOUSE/
FIRST FLOOR LEVEL

Except in the R3, District, the level of the first floor of an apartment or tenement house shall not be more than four feet above the mean level of the street or way on which the building abuts or is to be numbered and no space below such first floor shall be used for human occupancy.

8.3.7

BUILDING DISTANCE
TO CURB LINE

In no district shall any part of the first story of any building, except a detached post or pier of not more than four (4) square feet horizontal area, be within sixteen (16) feet of the point of intersection of the outer lines of the curbs at street corners and in no instance shall the horizontal distance between the post or pier and the building be less than four (4) feet.

8.3.8

PUBLIC
GARAGES, ETC.

No public garage, or automobile repair/body shop, greasing station, storage battery service station, or gasoline filling station, or any of their appurtenances or accessory uses, shall hereafter be erected or placed within twenty-five (25) feet of the street line of any residence district. No driveway to such premises shall be in any part within twenty-five (25) feet of any residence districts. No public garage, automobile repair shop, greasing station, storage battery service

station, or gasoline filling station or any of their appurtenances or accessory uses, shall have any entrance or exit for motor vehicles any portion of which is within three hundred (300) feet of the line of any property used by any public or private school, public library, church, playground or institution for the sick, dependent, or for children under 16 years of age. All filling stations hereafter erected shall be so arranged that no filling shall be done into cars standing either on the street or sidewalk.

8.3.9

SEPARATE LOT/FRONTAGE

8.3.9.1

SEPARATE LOT

In single residence and general residence districts, each residential building shall be located on a separate lot.

8.3.9.2

FRONTAGE/
CURVED WAY

In single residence and general residence districts, each residential building shall not have less than 75 feet of frontage on a public way or a way shown on a definitive subdivision plan endorsed by the Planning Board in accordance with the provisions of M.G.L. Chapter 41 Section 81-A through 81-GG inclusively, except for lots along a curved way in which case the distance shall be measured through that portion of the building nearest the way along a line which is perpendicular to the radius of the curvature.

8.3.10.

LOT AREA ONE AND
TWO FAMILY HOUSES

In any district the construction of a single family residence requires a minimum lot area of 10,000 SF; and in any district a two family residence requires a minimum lot area of 12,000 SF.

SECTION 9

OFF-STREET PARKING REQUIREMENTS

9.1 APPLICABILITY

1. In all districts except the Central Business District, there shall be provided and maintained improved off street parking space with the erection, establishment or increase by units of dimensions of structures and uses. The intent is that except in the Central Business District, eventually all structures and uses be provided with sufficient off street parking spaces to meet the needs of persons making use of such structures and land uses. Unless specifically provided for elsewhere in this Ordinance as a Parking Requirement in the Central Business District none of the parking requirements of this Ordinance shall apply in the Central Business District.
2. Any application for a permit for the erection of a new building, or for an alteration or change of use of an existing building that provides additional accommodations, or for the development of a land use that requires parking, or for the modification of an existing parking area or structure, shall include a plan for parking and loading for the new or expanded facilities or areas.
3. Principal Use
 - a. Required off street parking facilities shall be provided on the same lot as the principal use they are required to serve with the following exceptions:
 - i. Multifamily apartment buildings; may have parking facilities provided on lots not more than two hundred (200) feet away from the building to be served. In the WF4 District, required parking facilities may be provided on the same lot, or on a contiguous lot under the same ownership or control as the building or buildings they serve. Without limitation, required parking may be provided in designated parking areas, on private ways, and in

parking structures provided such facilities are considered to be part of the same development.

- ii. In industrial districts and for institutional uses, in any district; the parking facilities may be provided on lots not more than one thousand (1,000) feet away from the building to be served,
- iii. In all cases off street parking lots shall be under the same ownership or control (long term lease agreement, easement or covenant) as the building or buildings which they serve. Where a certificate of occupancy has been issued conditional to the maintenance of offsite parking facilities, such certificate of occupancy shall lapse in the event of the sale or conveyance of the land used for such parking facilities or the unavailability of such parking facilities for required parking,

4. Off street non-accessory parking facilities are not permitted.

9.2 PRE-EXISTING BUILDINGS

Buildings and structures in existence on the effective date of this section are not subject to these parking requirements, but any future buildings and uses or enlargement of existing buildings or uses hereafter established shall provide parking facilities as required in this section.

9.3 OFF-STREET PARKING FACILITY REQUIREMENTS

Off-street parking facilities shall be provided as follows, except for the Central Business District and the Washington Street District. Residential uses in the Central Business District shall be required to provide off-street parking spaces when a residential unit has three (3) or more bedrooms, in said instance, one (1) off-street parking space shall be provided for each bedroom. For example, studio, 1 and 2 bedroom units require no parking, 3 bedroom units require 3 off-street parking spaces, 4 bedroom units require 4 off-street parking spaces, etc. In the Washington Street District, a two family or more residence shall have .75 spaces per each unit. In the Washington Street District there shall be no parking requirements for retail, eating and drinking establishments. No off-street parking lots shall be permitted in the Central Business District in the front or side yard.

<u>Use</u>	<u>Minimum Requirements</u>
<u>Residential</u>	
Single family	2 per dwelling unit
Multifamily	1.5 per dwelling unit
Multifamily with more than 50 units in the R3	1 per dwelling unit
Multifamily in the WF1, WF1A, WF2, WF3, WF4, WS and SHCO Districts involving a Project with more than 300 Residential Units	1 per dwelling unit
Single/Multi Unit (CBD only)	1 per bedroom for units with more than 2 bedrooms
Elderly	0.25 per dwelling unit
Group Residence	0.25 per bed
Hotel, motel, lodging	1 per room or unit

Extended Care facility 1.8 per dwelling unit

General

Nursing, convalescent home	0.5 per bed plus 0.5 per employee
Hospital: inpatient	1 per bed
Hospital: outpatient	3 per treatment room
Clinic	4 per treatment room/space
Places of Assembly	0.25 per person accommodated
Elementary & Middle School	1.5 per employee
High School	1.5 per employee plus 0.2 per student
Day Care Center	1 per teacher or staff person
Library, museum	1 per 350 sf gross floor area
Recreation facility	1 per 350 sf gross floor area
Health Club	1 per 350 sf gross floor area
Club, lodge, other	2.5 per 350 sf gross floor area

Business

General office	1 per 300 sf gross floor area
Retail sales	1 per 300 sf gross floor area
Funeral home, mortuary	1 per 250 sf gross floor area
Bowling alley/billiard rooms	3 per lane and 2 per billiard table
Food Service/Nightclub	0.25 per seat or 0.5 per person occupancy
Fast Food	1 per 100 sf gross floor area
Wholesale sales/display	1 per 1,000 sf gross floor area
Retail Storage	1 per 750 sf gross floor area
Services (personal, animal, other)	1 per 300 sf gross floor area
Telecommunications facility	1 per 3,000 sf gross floor area
Marina	0.25 per slip
Medical Office building	4 per office and 1 for each 3 employees in lab, pharmacy, etc.
Laundromats	0.5 per washing machine

Manufacturing

Warehousing/storage	1 per 3,000 sf gross floor area
Manufacturing area	1 per 1,000 sf gross floor area
Printing/engraving	1 per 250 sf gross floor area

Combined Facilities/Mixed Use

Parking for two or more buildings or uses may be provided in combined facilities where it is evident that such facilities will continue to be available for the several buildings or uses.

In the case of mixed use, the parking spaces required shall be the same as the requirements for the various individual uses, computed separately in accordance with this section. Parking space for one use shall not be considered as providing the required parking

facilities for any other use unless it can be clearly demonstrated that the need for parking occurs at different times.

Other Uses

Spaces sufficient to accommodate on the site all users of the facility, as established through documentation submitted to the satisfaction of the Building Commissioner

Notes:

1. Where the computation of required parking spaces results in a fractional number, only the fraction of one half or more shall be counted as one.
2. The required number of parking spaces shall not be reduced except upon approval of the Zoning Board of Appeals.

9.4 **DESIGN STANDARDS FOR OFF STREET PARKING FACILITIES**

1. **Parking Stall Dimensions**

- a. Standard Parking Stall: nine (9) feet wide, eighteen (18) feet length
- b. Standard Parking Stall in the WF1, WF1A, WF2, WF3, WF4, WS and SHCO Districts involving a Project with more than 300 Residential Units: eight and one half (8 ½) feet wide; eighteen feet in length.
- c. Parallel Parking Stall: eight (8) feet wide, twenty two (22) feet length.
- d. Handicapped Parking Stalls shall be in conformance with the Massachusetts Architectural Access Board Regulations, latest edition,

2. **Parking Aisle Dimensions** (drives associated with parking stalls only)

Parking Angle (°)	Aisle Width	
a. 0 to 15	12	One way only
b. 16 to 37	13	One way only
c. 38 to 57	15	One way only
d. 58 to 74	20	One way only
e. 75 to 90	24	Two way

3. **Driveway Dimensions** (drives for access and egress and interior circulation not associated with parking stalls)

- a. Minimum Driveway Width: For residential and commercial developments, the minimum driveway width shall be twelve (12) feet
- b. Maximum Driveway Width: For residential and commercial developments, the maximum driveway width shall be as follows:
 - i. Residential: Maximum driveway width of twenty four (24) feet,
 - ii. Commercial: Maximum driveway width of twenty eight (28) feet with intersections having a minimum radius of ten (10) feet,
- c. Distance between driveways on a single lot:
 - i. Minimum of fifty (50) for a corner lot,
 - ii. Minimum of thirty (30) for an interior lot measured at the front lot line,

- d. Distance between driveways and the curb line of an intersect street: minimum of twenty-five (25) feet measured at the front lot line.

4. Drive Through Services

- a. All buildings and uses that provide drive through service shall provide at least one escape lane adjacent to the drive through service lane. The escape lane shall be designed to allow vehicles to exit and bypass the drive through service lanes. The length of the escape lane must be no less than the length of the adjacent drive through service lane.
- b. Drive through and escape lanes shall have a minimum width of ten (10) feet for their entire length.
- c. Drive through and escape lanes shall comply with the following minimum length requirements, stacking spaces are to be eighteen (18) feet in length

<u>Activity</u>	<u>Stacking Spaces</u>	<u>Notes</u>
Bank teller	4	
ATM	2	
Car wash	6	
Gasoline pump	2	
Pharmacy	2	
Restaurant drive through	8	queue prior to order box
Restaurant drive through	4	order box to pick up window

- d. Drive through and escape lanes must be laid out such that they do not interfere with the internal traffic circulation of parking lots and so as not to block access to, or egress from, parking spaces. Drive through and escape lanes must be fully contained within the site and may not extend into the public way.

5. Setbacks

- a. No garage shall be provided nearer to the front street line than the prescribed minimum setback distance of the zoning district in which the lot is located,
- b. Parking stall shall be at least five feet from any property line or street line,
- c. No parking stall shall be located less than twenty five (25) feet from the front building wall or less than five (5) feet from the sidewall of any apartment building,
- d. Parking stall within the Central Business District shall be permitted to the property line or street line with curb stops installed and maintained at a minimum of three feet from the property or street line. There shall be no setback requirement in the Central Business District.

6. Lighting Requirements

- a. Off street parking facilities other than single and two family dwellings which are used at night must be provided with adequate lighting,
- b. Lighting shall be arranged and shielded so as to prevent glare from the light sources onto adjacent property. The maximum spillover illumination to adjacent properties use for residential purposes shall be 1.0 foot candle.

- c. Freestanding light poles shall not exceed twenty five (25) feet in height. Light poles utilized for walkway lighting shall not exceed twelve (12) feet in height.
- d. Luminaries shall be the shoebox type of decorative in nature, flood and area lighting is not allowed.
- e. Where wall pack type lighting are utilized for exterior illumination, the fixture shall be equipped with a prismatic lens to reduce glare. Means should be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of wall pack luminaries shall not exceed twenty (20) feet in height.
- f. Minimum foot-candle required, measured at grade level is 1.0; maximum foot-candle requirement, measured at grade level is 8.0.

7. Landscaping and Screening Requirements

- a. All setback areas within an off street parking area shall be appropriately landscaped to provide visual buffering and an aesthetic parking area.
- b. A plan showing the landscaping shall be submitted with all plans for off street parking facilities,
- c. All off street parking areas with ten or more spaces which are located within a residential district, or within a nonresidential district, but adjacent to a residential district whether on the side or rear shall be screened from all adjoining lots in the residential district by a wall of solid and uniform appearance or a compact evergreen hedge of a height of not less than six (6) feet. This screening shall be erected and maintained in good condition at all times.
- d. An area of interior planting equivalent to at least five (5) percent of the area of the parking facility shall be distributed within the parking facility and landscaped and continuously maintained. This requirement shall be in addition to requirement for setback area and screening along the perimeter of a parking area.
- e. Interior planting areas shall be at least twenty (20) square feet in area. At least one tree shall be planted in each planting area.
- f. Trees shall be used as the primary landscaping material and shrubs and ground cover shall be used to complement trees,
- g. At least one tree shall be planted in each planting area and there shall be at least one tree for every ten (10) parking stalls.
- h. Trees shall be at least three (3) inches in caliper at the time of planting and shall be species characterized by rapid growth and by suitability and hardiness for location in a parking lot.

8. General Provisions for Off-Street Parking Facilities

- a. Backing out onto a public street or sidewalk from a parking space shall be permitted only for single and two family residences,
- b. Parking facilities shall be designed so that each vehicle may enter or exit from any parking space without requiring the moving of any other vehicle,
- c. All parking facilities shall be designed and constructed with internal circulation so that each parking space can be accessed without using a public street,
- d. Parking facilities and structures shall be designed and constructed so as to provide for adequate access for emergency vehicles,
- e. Off street parking facilities may only be used for the parking of vehicles,
- f. Off street parking facilities shall not be used for storage,
- g. Off street parking facilities shall not be used for the storage or repair of vehicles or equipment,
- h. Off street parking facilities shall maintain clear and unobstructed travel and fire lanes at all times,
- i. All parking stalls in an off street parking facility shall be kept free of snow,
- j. Off street parking facilities shall be surfaced with asphalt, concrete or other durable material,
- k. Off street parking stalls must be marked with four inch painted or other permanent lines so as to clearly indicate the stall to be occupied by each vehicle,
- l. Aisles and driveway must be clearly marked with directional arrows, lines and signage to expedite traffic movement,
- m. Off street parking facilities shall be provided with sufficient drainage to the satisfaction of the Lynn Water & Sewer Commission,
- n. Off street parking facilities shall be kept clean and free from rubbish, and debris. All planting and landscaped areas shall be maintained in a healthy condition and whenever necessary shall be replaced with new plant materials to insure continued compliance with any applicable screening requirements. All surfaces, lighting, signage, fences, barrier and walls shall be maintained in good repair and whenever necessary shall be replaced.

SECTION 10

OFF-STREET LOADING REQUIREMENTS

10.1. APPLICABILITY

It is the intention of this section that all future buildings and uses that require the delivery of goods and items as part of their function be provided with necessary space for off-street loading.

10.2. OPENINGS ONTO RESIDENTIAL STREETS

Where in a business or industrial district adjoins a residence district, business or industrial buildings shall have no opening on side streets for the receiving or delivery of goods.

10.3. COMPUTATION

10.3.1. EXTENSION OF EXISTING BUILDING

Where a building existing on the effective date of this Ordinance is altered or extended in such a way as to increase the gross floor area by five-thousand (5,000) square feet or more, only the additional gross floor area shall be counted in computing the off-street loading requirements.

10.3.2. TWO OR MORE USES

Where a building or land area is used by two or more activities that fall into different classes of use under this section, the facilities required shall be the sum of the requirements for the individual establishments.

10.3.3. FRACTIONAL

Where the computation of required loading bays results in a fractional number, only the fraction of one-half or more shall be counted as one.

10.4.
TABLE OF LOADING
REQUIREMENTS

Off-street loading facilities shall be provided for the specified use as follows:

TABLE OF LOADING REQUIREMENTS

Number of bays required by gross floor area of structures in thousands of square feet

Class of Use	Under 5	5-50	51-100	101-150	151-300	Over 300
Retail trade, wholesale and storage, transportation terminal, manufacturing, public utility	0	1	2	3	4	One additional space for each additional 150,000 sf over 300,000 sf.
Consumer services, office buildings, hotel and motel, recreation	0	1	1	2	3	Same as above.
Institution	0	0	1	1	2	Same as above.

10.5.

DESIGN STANDARDS FOR LOADING FACILITIES

DIMENSIONS

Each required loading bay shall be no less than ten feet in width, thirty-five feet in length, and fourteen feet in height if enclosed, such requirements to be exclusive of drives and maneuvering space, and all required bays, drives, and maneuvering space shall be located entirely on the lot with immediate and direct ingress to the building intended to be served. A bay need not be enclosed in a structure provided any yard area used as a loading bay shall not infringe on front, side, and rear yard requirements of the respective districts. All such facilities shall be designed with appropriate means of vehicular access to a street or alley, as well as maneuvering area, and no driveways or curb cuts shall exceed twenty-five (25) feet in width except in industrial districts.

10.5.1.

ENCLOSURE
AND LIGHTING

Required off-street loading bays may be enclosed in a structure and must be so enclosed if located within fifty (50) feet of a residential district where the use involves regular night operation, such as that of a bakery, restaurant, hotel, bottling plant, or similar uses. Any lighting provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property.

10.5.2.

ACCESSORY
DRIVEWAY
REDUCTION

All accessory driveways and entrances shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Building Commissioner to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways.

Loading facilities shall not be reduced in total extent or usability after their installation, except when such reduction is in conformity with the requirements of this section. Such facilities shall be designed and used in such a manner as to no time to constitute a nuisance or hazard or unreasonable impediment to traffic.

FOOTNOTES

- (1) Off-street loading requirements shall not apply to mixed use buildings in the WF4 District.

SECTION 11

SCREENING REQUIREMENTS

- 11.1 An opaque and uniform wall, fence, or a compact evergreen hedge planted to attain a height of not less than six (6) feet shall be erected and properly maintained on the side and/or rear of the business or industrial lot that has any of the following business or industrial uses of land and building adjoining any residential district or a residential property in an industrial or business district.
- 11.1.1. All outdoor areas or facilities for the storage of fuel, materials, or utility installations.
- 11.1.2. All lubrication, washing, repairing and disposal not conducted entirely within a gasoline station or similar establishment.
- 11.1.3. Any principle use not conducted wholly within a building.

SECTION 12

SPECIAL PERMITS

12.1 AUTHORITY

Permission of the City Council shall be required for any use listed in the Table of Use Regulations Section 4 as requiring a Special Permit unless otherwise noted and in addition the following:

Building material
Garage (three or more cars - public or private)
Laundry
Junk business
Stable
Stone mason
Food establishment where alcohol beverages in addition to food are served (Except in the Central Business District, WF1, WF1A, WF2, WF3, WF4, WS, SHCO and BSBZ).
Enclosed ice or roller skating rink
Carousel
Circus
Carnival
Inclined railways
Ferris wheel
Electric or other type of boat rides within or without building or structure
Bowling alley - a room or rooms where bowling, pool or billiards are played on tables, however operated, coin or otherwise
Shooting gallery and similar commercial amusement places
Mobile Food Vehicle

12.1.1. Permission of the City Council shall be required by the owner, lessee, tenant or occupant of any land within the City of Lynn, for the purpose of filling in or depositing upon any improved or unimproved land in the City of Lynn of any rubbish, waste, refuse, ashes, cans, wood, organic material, garbage, paper bags, or papers, and the elevation of such fill shall not exceed by 2 feet the elevation of the street or way on which the land abuts whether such premises are or are not now being used for such purpose or purposes.

12.1.2. Permission of the City Council may be granted for five (5) or more persons not related by blood, adoption or marriage, or not having the legal relationship of foster parent-foster child, to be deemed to constitute a family and thusly occupy a dwelling unit and live as a single, non-profit housekeeping unit.

12.2.
PROCEDURE

Public Hearings: Any person or persons desiring to obtain the permission of the Council, for any purpose for which permission is required under this Ordinance, shall make written application therefore to the City Clerk as he/she is Clerk of the City Council, and the Council shall hold a public hearing thereon after notification as required by law and render a decision. It may make rules for such hearings and shall send notification as required by law, and shall at such hearings hear such owners and others who may desire to be heard. No application shall be approved by the Council without considering the effects upon the neighborhood and the City. A permit may be issued with conditions such as will protect the community and such conditions shall be specified in writing on the permit and may from time to time be changed in the interest of the community. If a permit would result in substantial injury it shall be refused.

No application for a permit for any of the aforesaid, including uses permitted in light industrial and heavy industrial zoning districts, shall be received by the Building Commissioner, except when accompanied by the written approval of the City Council.

12.3.
COMMENCEMENT

All licenses presently issued under provisions of this section terminate if substantial use or construction has not commenced within two years from ordination of this Ordinance.

12.4.

A Special Permit granted under Section 12 of the Lynn Zoning Ordinance shall be terminated after a period of two (2) years from the date when the Special Permit is granted.

Termination shall result if substantial use or construction has not commenced within the two-year period. The termination period shall also include any time required to pursue or await the determination of an appeal.

12.5.

All construction or operations under a building or Special Permit shall conform to any subsequent amendment of the Ordinance or unless the use or construction is commenced within a period of six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

12.6
PERMISSION FOR
OCCUPANCY

Permission of the City Council shall be required for use or occupancy of any premises or lot for the purposes set forth in Table 4.4 of this Ordinance as requiring a Special Permit unless otherwise noted, or unless a building permit has been issued as provided in Section 12.2 for the use or occupancy of any premises or lot for:

- A builder's yard/shop
- Cemetery
- Contractor's yard/shop
- Junk yard/business
- Sand or gravel pit
- Stone mason's yard
- General storage yard
- Food establishment, either with or without alcoholic beverages
- Commercial greenhouse
- Open air stand
- Any place where live chickens, geese, ducks, or other fowl are brought into or kept for the purpose of selling or killing or plucking
- The renting of a portion of a one-family detached house in a single family residence district to a person or persons not members of the family (as defined in Section 2.6) of the owner of the premises. This section is not applicable to people who are not in the typical relationship of landlord and tenant. It is not the intent of this provision to prohibit or regulate group homes or group residences.

The use of land, either, improved or unimproved, for the filling in or depositing therein of any rubbish, waste, refuse, ashes, cans, wood, organic material, garbage, paper bags or paper and the elevation of such fill shall not exceed by 2 feet the elevation of the street or way on which the land abuts whether such premises are or are not now being used for such purpose or purposes: enclosed ice or roller skating rink, carousel, circus, carnival, inclined railways, ferris wheel, flying horses, electric or other type of boat rides within and without building or structures, bowling alley, a room or rooms where pool or billiards are played on tables; however, operated coin or otherwise, shooting gallery and similar commercial amusement places, kennels for the keeping, training or housing of racing dogs, or for anything permitted in the Light Industrial and Heavy Industrial Zoning Districts and no use or occupancy permit for any of the aforesaid purposes shall be granted by any City Department or official except when application therefore is accompanied by the written approval of the City Council.

SECTION 13

APPEALS

13.1. BOARD OF APPEALS MEMBERSHIP

A Board of Appeals is hereby established to consist of five members.

13.2. MEMBERSHIP

The members of such Board shall be elected by the City Council for terms of one, two, three, four, and five years, respectively, and thereafter one each year for a five-year term. Elections to said Board shall be made as soon as practicable after the adoption of this Ordinance, and thereafter annually on or before the fifteenth day of January. A member elected to fill a vacancy shall serve for the unexpired term. The Board shall keep minutes of its proceedings, and its members shall serve without compensation. No member shall act in any case in which he is interested and in case any member is so disqualified, or is absent because of illness or other cause, an associate member shall act in case of such vacancy, inability to act or interest on the part of a member of said board. The Mayor shall designate four such associate members who shall act in the manner prescribed in General Laws, Chapter 40A, Section 12.

13.3. PROCEDURE

Any person aggrieved by the refusal of the Building Commissioner to issue a permit under the provisions of this Ordinance, and any person aggrieved by the issuance of a permit or by a decision of the Building Commissioner made under the provisions of this Ordinance, may appeal to the Board of Appeals as provided in Section 8, 9, and 10, Chapter 40 A of the General Laws (as amended December 22, 1975) except for those matters solely within the jurisdiction of the City Council.

The Board of Appeals may, on petition, after public notice, a hearing, and subject to such appropriate conditions and safeguards as it may impose, in specific cases, determine and vary the application of the district regulations herein established in harmony with their general purpose and intent as follows:

13.4. VARIANCES

Permit such variances as authorized under the provisions of Section 10, Chapter 40 A of the General Laws.

13.5. SPECIAL PERMITS

Grant a special permit for the following purposes and subject to the following conditions:

13.5.1.
ALTERATION OF
NON-CONFORMING
BUILDINGS

Permit the alteration of non-conforming buildings used for commercial or industrial use by addition or additions thereto of the same class or a higher class of construction as the existing non-conforming building, provided that such addition or additions shall not exceed twenty-five (25) percent of the floor area of the existing non-conforming building nor shall the maximum height of such alteration exceed the height of the existing non-conforming building; and further provided that such addition or additions are to be used for the same non-conforming purpose as the existing building and as part of the existing building, provided that the existing non-conforming use and any addition or alteration shall conform to the present parking requirements of the City of Lynn Zoning Ordinance.

SECTION 14

GENERAL REGULATIONS

14.1.
AMENDMENTS

The Zoning Ordinance may from time to time be changed by amendment, addition or repeal, but only pursuant to Massachusetts General Laws, Chapter 40A, Section 5.

If any area is hereafter changed from one use to another by a change in district boundaries under the foregoing provisions, no such change shall apply to the use of buildings or premises existing at the time of the passage of such an amendment.

14.2.
PLOTS

Applications for building or use or occupancy permits shall be accomplished by a plot of the lot in duplicate, drawn to scale, showing the actual dimensions of the lot, together with streets and alleys adjacent thereto, the exact location and size of buildings already upon the lot, and of the building or buildings to be erected. A record of such applications and plots shall be kept on file with the office of the Building Commissioner.

14.3.

Deleted

14.4.
OCCUPANCY PERMIT

No building erected, altered or in any way changed as to construction or use under a permit or otherwise, and no premises shall be occupied or used without an occupancy permit signed by the Building Commissioner which permit shall not be issued until the building and its uses and accessory uses and the use of all premises comply in all respects with this ordinance. With such conditions as he may deem it wise to impose, the Building Commissioner may issue a temporary certificate for a specified part of the building.

14.5.
ENFORCEMENT

Except as otherwise provided, this Ordinance shall be administered by the Building Commissioner who shall issue all permits for erection, alteration or addition to any building. He shall approve no application of any kind, plans and specifications and intended use for which are not in all respects in conformity with this Ordinance. If a use otherwise permitted would cause injury to property or be otherwise detrimental to the community, a permit shall be refused. To aid the Building Commissioner in his work, it shall be the duty of every police officer to know that all work on buildings on his beat is being done under a proper permit and to notify the Building Commissioner if it is not being so done.

14.6.
VARIATIONS

In general, this Ordinance is supplementary to other laws and ordinances affecting the use, height, area and construction of buildings and the use of premises. Where this Ordinance imposes greater restrictions upon the construction or use of buildings or the use of premises than are imposed by existing provisions of laws or ordinances, the provisions of this Ordinance shall control.

14.7.
EFFECT

This Ordinance shall take effect subject to all requirements and pertinent sections of Massachusetts General Laws, Chapter 40A.

14.8.
INVALIDITY

The invalidity of any portion of this Ordinance shall not affect the validity of any other portion.

14.9.
PENALTY FOR VIOLATION

Whoever, himself or by his servant or agent, or as the servant or agent of any other person, or any firm or corporation violates any provision of this ordinance shall be punished by a fine of not more than three-hundred dollars (\$300.00) unless otherwise provided for with in this Ordinance, each day of violation shall constitute a separate offense which may be recovered on complaint before the District Court of Southern Essex County.

SECTION 15

PLANNED UNIT DEVELOPMENT DISTRICT

15.1.

DESCRIPTION OF DEFINITION OF ZONE

15.1.1.

The City Council may grant a Special Permit for the construction and occupancy of a Planned Unit Development in a district zoned for such hereinafter defined and limited. The power granted herein is granted pursuant to the provisions of Chapter 40A, Section 9, of the General Laws of the Commonwealth of Massachusetts.

- 15.1.2. A Planned Unit Development District shall mean an area of land controlled by a single land owner to be developed as a single entity in which a mixture of residential, open spaces, commercial, and industrial uses, and a variety of building types and designs are determined to be sufficiently advantageous to render it appropriate to grant a Special Permit to depart from the normal requirements of the district to the extent authorized by the Lynn Zone Ordinance.
- 15.1.3. The tract of land controlled by a single owner at the time of application shall not be less than sixty thousand (60,000) square feet.
- 15.1.4. The purpose of the Planned Unit Development District is to provide for a mixture of land usage at a specified location in the City of Lynn at greater density and intensity than would be normally allowed provided that land usage does not detract from the livability and aesthetic qualities of the environment.
- 15.1.5. The City Council may, upon being petitioned, designate areas for Planned Unit Development Districts; provided, however, that no Planned Unit Development District shall be approved in areas of the City currently zoned, R1, R2, R3 or R4.
- 15.1.6. All applications for a Special Permit under this section shall be subject to the provisions of Section 16, Site Plan Review.
- 15.2. APPLICATION PROCEDURE
- 15.2.1. SUBMISSION OF PRELIMINARY PLAN
- 15.2.1.1. The applicant shall file a preliminary plan accompanied by the form titled, "Submission of the Preliminary Plan, Planned Unit Development", to the Planning Board at a regularly scheduled meeting. A copy of the preliminary and the above-mentioned form shall also be filed in the City Clerk's Office. A fee of \$500.00, in a certified check made out to the City of Lynn, shall accompany the submission of the preliminary plan. The fee shall cover the cost of notification of abutters and advertisement.
- 15.2.1.2. The Planning Board, within 30 days upon receipt of the Plan and notification from the City Clerk, shall review and determine whether the proposed project is consistent with the most suitable development of the City.
- 15.2.1.3. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of the definitive plan.

- 15.2.2. CONTENTS OF PRELIMINARY PLAN: PLANNED UNIT DEVELOPMENT
- 15.2.2.1 Planned Unit Development Boundaries, north point, date, scale, legend, and title, "Preliminary Plan, Planned Unit Development", the names of applicant, and engineer or designer.
- 15.2.2.2 Names of all abutters, land uses, and approximate location and width of all adjacent streets.
- 15.2.2.3. In a general manner, the existing and proposed lines of streets, ways, easements, and of any public areas within or next to the Planned Unit Development.
- 15.2.2.4. The approximate boundary lines of existing and proposed lots with approximate areas and dimensions.
- 15.2.2.5. The proposed system of drainage, including adjacent existing natural and artificial waterways, and the topography of the land in a general manner.
- 15.2.2.6. Existing buildings and significant structures in a general manner. The preliminary plan shall also reveal those buildings which presently exist which are to be removed.
- 15.2.3. SUBMISSION OF A DEFINITIVE PLAN
- 15.2.3.1. The applicant shall submit an application for a Special Permit accompanied by the original of the definitive plan, plus ten (10) copies thereof.
- 15.2.3.2. The City Clerk shall transmit the original and copy of the definitive plan to the Planning Board. A copy shall also be forwarded to the Clerk of the Council and to the Mayor.
- 15.2.3.3. Within sixty (60) days of the filing of the definitive plan, the Planning Board shall submit to the City Council a report discussing the feasibility of the project and the consistency of the project with regard to the most suitable development of the City.
- 15.2.3.4. The City Council, upon receipt of the report of the Planning Board, and within 65 days of the filing of the definitive plan, shall hold a public hearing, notice of which shall be given in a local newspaper, once in each of two successive weeks, with the first publication to be not less than fourteen (14) days before the date of the hearing and notice shall be given to owners of all property abutting the proposed

development of land in the same ownership in accordance with Chapter 40 A of the Massachusetts General Laws. Notice shall be given by certified mail by the City Clerk. The list of abutters shall be prepared and certified by the Office of Assessors.

- 15.2.3.5. The City Council shall, within ninety (90) days following the public hearing, provide by written certification either that the application is approved as submitted, approved subject to modification, or denial of the project. If the City Council fails to issue its findings within ninety (90) days, the plan shall be deemed approved and the Special Permit is granted.
- 15.2.3.6. Approval of a Special Permit for a planned unit development by the City Council shall require a two-thirds (2/3) vote of the City Council.
- 15.2.3.7. If the project is denied, the developer shall not be allowed to submit substantially the same proposal for a period of at least two years.

15.2.4. CONTENTS OF A DEFINITIVE PLAN

- 15.2.4.1. The application of a Special Permit and site plan review shall be accompanied by the original copy of the definitive plan and other data required to be submitted in triplicate and shall contain the following data:
- a. It shall be drawn at a scale of one inch equals forty feet unless another scale is requested and found suitable by the City Planner.
 - b. The plan shall be prepared by a land surveyor, professional engineer, or architect.
 - c. The scale, date, and north arrow shall be shown.
 - d. The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and further that the plan be signed under the penalties of perjury.
 - e. The corner points of the lot and change of direction of lines to be marked by stone monuments, cut in stone, stake, and nail, iron pin, or other marker, and shall be so marked.
 - f. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
 - g. Easements within the lot and abutting thereon.
 - h. The location of existing or proposed building or lot.
 - i. The dimensions of the existing and proposed buildings in feet.
 - j. The distance between buildings on the same lot.
 - k. Percent of the lot coverage.

- l. The distance of existing and proposed buildings from the lot lines in feet.
- m. Average finished grade of each building.
- n. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
- o. Topographical lines at two foot intervals, existing and proposed.
- p. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
- q. Numbering of parking spaces.
- r. Height of all buildings, above average finished grade of abutting streets.
- s. The number of apartments, hotel rooms, meeting rooms, and restaurant and theater.
- t. Total square feet of floor space and of all landscape and recreation areas, and depiction of materials to be used (grass, five (5) foot shrubs, etc.).
- u. Deed or other recorded instrument that shows the applicant to be the owner or owner under option of the land to be designated as a Planned Unit Development.
- v. Any structure to be demolished.

15.3.

DETERMINANT OF SITE PLAN REVISION

15.3.1.

The site plan shall be subject to the following conditions, and the City Council, with the advice of the Planning Board, shall make a determination whether or not the project meets all the following conditions:

15.3.1.1.

Site of structure and uses in an appropriate location.

15.3.1.2.

Use or uses when developed will not adversely affect the health, safety, light, air, public access, and general welfare.

15.3.1.3.

The ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians.

15.3.1.4.

That adequate parking facilities are provided for each use and structure in the development.

15.3.1.5.

That the project is consistent with the most suitable development of the City.

15.3.1.6.

In these instances where it is in the public interest to protect certain scenic values and opportunities, there shall be a determination made which shall weigh the affect which the development has on the visual corridors of public concern. The plan shall insure that major

facilities or functions, which require siting within these scenic vistas, are designed to be visually compatible with the natural characteristics.

15.4. In a Planned Unit Development, the following uses may be proposed:

15.4.1. Residential--Multi-family residential which may include apartments or condominiums in low, mid, or high-rise structures.

15.4.2. Commercial Entertainment

15.4.2.1. Hotel, Motel

15.4.2.2. Restaurant

15.4.2.3. Theater

15.4.3. Commercial

15.4.3.1. Store, salesroom or showroom for the conduct of retail business, excluding facilities for the sale of motor vehicles, mobile homes, house trailers.

15.4.3.2. Personal Services

15.4.3.3. Bank or other financial services

15.4.3.4. Business or professional offices

15.4.4. Industrial Use--In general, uses which are believed not to be injurious to the safety or general welfare of the areas as enumerated in the Zone Ordinance.

15.5. AREA REGULATIONS

15.5.1. Open Space: In all Planned Unit Developments, at least 15% of the land shall be set aside as permanent open space. The required areas for common open space use shall either be reserved for private use or may be dedicated to the City. Land dedicated to the City shall be maintained by the person or persons responsible for the Planned Unit Development. Satisfactory written agreements or other arrangements acceptable to the City shall be made for perpetual preservation and maintenance of all common areas to be set aside and reserved for private use. A covenant shall be placed on the land such that no lot can be used, sold, or built upon until such time as the written agreement has been accepted by the City. Specifically, in the case

of corporate ownership, the development shall include in the deed to the owners beneficial rights in said common land and an easement shall be conveyed to the City of Lynn against development of said land and the erection thereon of any structures other than for non-profit recreational use. The possibility of further subdivision of open space shall be eliminated by deed restriction or agreement in a form acceptable to the City.

15.5.2. Setback Requirements--Non-residential buildings may be built to the street line provided that the street is 50 feet in width and the zoning on the opposite side of the street is non-residential. In all other cases, the building shall be set back one quarter the height of the average of principal buildings, but not less than 25 feet from all front and rear lot lines.

15.5.3. Floor Area -The floor area in all buildings in a Planned Unit Development shall not exceed a floor area ratio of 3, excluding parking structures, malls, and plazas.

15.6. PARKING REGULATIONS

15.6.1. In all Planned Unit Development Districts, adequate off-street parking shall be provided for all vehicles normally visiting the property at any one time. The parking may be ground level, underground, or in a garage structure.

15.6.2. The design standards for off-street parking shall be in compliance with Section 9 of the Lynn Zone Ordinance.

15.6.3. The off-street loading requirements for all uses located within a Planned Unit Development shall comply with Section 9.

SECTION 16

SITE PLAN REVIEW

SECTION 16.

ADMINISTRATIVE SITE PLAN REVIEW

16.1

PURPOSE

The purpose of the site plan review process is to improve the design and layout of commercial, residential, industrial development above a certain threshold through reasonable conditions, rather than prohibit uses. The purpose of Section 16 is not to impose a special permit process pursuant to Massachusetts General Laws Chapter 40A. The scope of review is limited to imposing reasonable terms and conditions on the proposed use.

16.2

APPLICABILITY

A Site Plan Review by the Site Plan Review Committee is required for all projects to be developed, except for the construction of One Family Detached House or a two-family house.

For the purpose of this Section of the City of Lynn Zone Ordinance, the term "Project" shall mean:

- a. the construction of a new building or replacement building for any building greater than 5,000 square feet in gross floor area; and/or
- b. Any renovation or change of use which requires the addition of more ten or more parking spaces irrespective of existing parking spaces or the relocation of existing parking spaces, the relocation of the building entrance and/or the relocation of the site entrance to accommodate the renovation or change of use.
- c. Any addition or construction of a new building or replacement building with a drive thru.

16.3

SITE PLAN REVIEW COMMITTEE COMPOSITION

The Site Plan Review Committee shall be comprised of seven (7) members as follows: A representative from each of the following City Departments: Lynn Housing Authority and Neighborhood Development, Inspectional Services Department, (Director of Inspections) Department of Public Works, the Office of Economic and Industrial Corporation, the Lynn Water & Sewer Commission, Community Development and the Planning Director or if there is a vacancy in such position the Chairman of the Planning Board. The member shall be the head/chief/director of the respective Departments or his/her designee.

Prior to issuing any approval, with or without conditions, the Site Plan Review Committee shall request comments from the departments listed below in 16.6, following the procedure set out in 16.6. The Site Plan Review

Committee may impose conditions based on the comments issued by these municipal entities.

16.4 SITE PLAN REQUIREMENTS

16.4.1 SITE PLAN SUBMISSION

Any person, individual, or corporation desiring to develop a project requiring a Site Plan Review under this Section must submit a complete Site Plan consisting of material specified in this section to the Site Plan Review Committee through the Chief of the Department of Inspectional Services.

16.4.2 PRE-APPLICATION CONFERENCE

Prior to the preparation of the Site Plan, the applicant, may, at his sole option, request a pre-application conference with the Site Plan Review Committee to present a preliminary plan of the project and solicit preliminary comments from the Committee.

16.4.3 SITE PLAN PROPOSAL REQUIRED MATERIALS

The applicant shall submit ten (10) copies of a site plan proposal drawn to scale, not to exceed one inch equals 40 feet (1" = 40'). The site plan review materials must be submitted the Chief of the Department of Inspectional Services and said office shall forward the materials to the Site Plan Review Committee.

At a minimum, the submitted materials shall include the following as applicable:

- a. A cover letter generally describing the nature and location of the project and listing any materials that the applicant is requesting that the Committee waive under 16.4.4;
- b. All pre-filing comments received from the pre-application conference if the applicant requested one under 16.4.2
- c. Parcel lot lines for the proposed project and surrounding parcels;
- d. Use of all buildings abutting the proposed project;
- e. Proposed parking plan, if applicable, including location of access and egress;
- f. Location and type of residential access;
- g. Location and type of commercial access;
- h. Location of existing and any proposed buildings on the project site;
- i. Rendering of all facades of proposed buildings;
- j. Location of solid waste containers, if any;
- k. Areas subject to a one hundred (100) year flood, if any;
- l. Provisions for drainage, sewage, and fire safety as applicable to City of Lynn Ordinances;

- m. Proposed landscaping, including all screening and buffering of parking areas, electronic transformers, solid waste containers and similar ancillary facilities;
- n. Existing and proposed fencing, walls and lighting;
- o. Location, material, and size of all signs;
- p. Location of handicapped access, if applicable.
- q. Analysis of compliance with all relevant dimensional provisions of this ordinance.

16.4.4

WAIVER OF REQUIRED MATERIALS

Upon written request of the applicant in the cover letter of the site plan proposal or at any time after submittal, the Committee may waive any of the submittal requirements set forth in 16.4.3, deemed by the Committee to be not necessary for its review of the proposal.

The applicant may omit from its initial site plan proposal any materials that the applicant requests that the Committee waive. However, the applicant must submit as an addendum to the initial proposal any materials omitted from its initial proposal that the Committee does not agree to waive in order for the applicant to have submitted a completed site plan.

The review schedule in 16.6.2 will begin once the Committee has received a completed site plan. The Committee shall decide whether to waive any of the submittal requirements within two weeks of any written request from the applicant.

16.5

SITE PLAN REVIEW CRITERIA

The Site Plan Review Committee shall at a minimum review all site plans for the following:

- a. Consistency with any design guidelines adopted by the City of Lynn.
- b. Consistency with all sign, design guidelines, landscaping and buffering requirements of the City of Lynn.
- c. Protection and enhancement of important existing natural and historic site features.
- d. Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and light barriers, and preservation of light and air.
- e. Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and/or adjacent streets.
- f. Adequacy and arrangement of parking and loading spaces, as applicable.
- g. Provision for emergency access and operations within the site;
- h. Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

- i. Adequacy and safety of storage facilities/methods for fuel/refuse, vehicles and other material and equipment incidental to the use of the site;
- j. Consistency and conformity with any Master Plan commissioned by the City of Lynn for the district in which the project would be developed.

16.6

REVIEW PROCESS

16.6.1

REVIEW INPUT

Within five (5) days of receipt of a completed site plan the Chief of the Department of Inspectional Services shall transmit a copy of the plan to the Ward Councilor or Councilors, Department of Community Development, Traffic Commission, Historical Commission, Police, Fire, Health, and any other Department or Board determined by the Chief of the Department of Inspectional Services to have an interest in the proposed project. The agencies, board or commissions herein named shall review the plan and report their recommendations (if any) in writing to the Site Plan Review Committee no later than ten (10) days after receipt of the plan.

16.6.2

REVIEW SCHEDULE

The Site Plan Review Committee shall hold a meeting with the applicant no later than twenty-one (21) days after a complete site plan is received by the Chief of the Department of Inspectional Services. The Site Plan Review Committee shall hold as many meetings as necessary to review the site plan. Within forty-five (45) days of the submission of a completed Site Plan to the Chief of the Department of Inspectional Services, the Site Plan Review Committee shall provide its letter of recommendation with any conditions, to the Chief of the Department of Inspectional Services, the Applicant, and the Lynn City Council. With the approval of both the applicant and the Site Plan Review Committee, the review period may be extended for an additional thirty (30) days. In the event the review period is mutually extended, the Site Plan Review Committee shall provide its letter of recommendation with any conditions within seventy-five (75) days.

If the Site Plan Committee fails to hold a meeting on the Site Plan submission twenty-one (21) days after the completed Site Plan is received by the Chief of the Department of Inspectional Services or, in the event a meeting is held, but the Site Plan Review Committee fails to forward its letter of recommendation within forty-five (45) days after the completed Site Plan is received the Chief of the Department of Inspectional Services, or seventy-five (75) days in the event the review period is mutually extended, the Site Plan shall be deemed recommend without conditions. Nothing in this Section shall require the Site Plan Review Committee to advertise the date(s) of the meetings, however said meetings shall be open to the public.

RELATIONSHIP TO BUILDING PERMIT

The Department of Inspectional Services shall not issue a building permit for a project requiring a Site Plan Review under this Section, unless and until, a Site Plan Review has been completed, and a letter with or without site plan conditions has been forwarded to the Chief of the Department of Inspectional Services by the Site Plan Review Committee. In the instance where the Site Plan Review Committee fails to forward a letter within the specified time period as specified in said Section, the Chief of the Department of Inspectional Services shall consider the Site Plan recommended by the Site Plan Review Committee without conditions.

The Chief of the Department of Inspectional Services may reject all or some of the Site Plan Review Committee site plan conditions and issue a building permit in accordance with any and all, ordinances, laws, and regulations. The Chief of Inspectional Services shall issue a letter accepting or rejecting the conditions within fourteen (14) days of receipt of the Site Plan Committee letter or within fourteen days of the deadline for receipt of said letter if no letter is transmitted. However, in the event the Chief of the Department of Inspectional Services rejects one or more of the conditions of the Site Review Committee, the Chief of the Department of Inspectional Services shall, in writing and within 5 days, inform the Lynn City Council and Site Plan Review Committee as to the reasons for the rejection(s). Upon the issuance of a building permit which fails to include a condition of the Site Plan Review Committee, the City Council and Site Plan Review committee may appeal any decision to reject a condition to the Zoning Board of Appeals pursuant to M.G.L. c. 40A. If the Chief of the Department of Inspectional Services accepts all or some of the conditions of the Site Plan Review Committee, those accepted conditions shall become conditions of the building permit and shall be met prior to the issuance of a Certificate of Occupancy. Upon the issuance the letter accepting or rejecting the conditions imposed by the Site Plan Review Committee from the Chief of Inspectional Services, the applicant shall have the right to appeal said conditions pursuant to Massachusetts General Laws Chapter 40A, Section 17.

SECTION 17

REGULATION OF THE DEVELOPMENT, CONSTRUCTION, AND ERECTION OF WIRELESS TELECOMMUNICATIONS TOWERS AND ASSOCIATED TELECOMMUNICATIONS FACILITIES IN THE CITY OF LYNN

17.1.

TITLE

An Ordinance amending the City of Lynn Zone Ordinance to Provide for the Regulation of the Development, Construction and Erection of Wireless Telecommunication Towers and Associated Telecommunication Facilities in the City of Lynn is hereby established, and said Ordinance shall provide as follows:

17.2

PURPOSES

The general purpose of this Amendment is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Lynn.

Specifically, the purposes of this Article are:

- a. To regulate the appropriate location of Towers and Telecommunications Facilities in the City of Lynn;
- b. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- c. To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, sighting, landscape screening, and innovative camouflaging techniques;
- d. To promote and encourage shared use/collection of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- e. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
- f. To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound; and
- g. To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. Accessory Equipment means any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment, buildings, cabinets and storage sheds, shelters or other structures.
- b. Antenna shall mean Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services. Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips.
- c. Antenna Support Structure means any building or structure other than a tower which can be used for location of telecommunication facilities.
- d. Applicant means any Person that applies for a tower development permit.
- e. Application means the process by which the Owner of a parcel of land within the City submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an Applicant to the City Council concerning such a request.
- f. Commissioner means the Building Commissioner for the City of Lynn.
- g. Engineer means any engineer licensed by the Commonwealth of Massachusetts.
- h. Equipment means antennas, antenna support structures, monopoles, stealth telecommunication facilities, support structures, telecommunication facilities, towers, utility poles, wireless facilities and wireless support structures.
- i. Monopole means a single, freestanding pole-type structure supporting one or more antennas. For purposes of this Ordinance, a Monopole is not a Tower.

- j. Owner means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the City who desires to develop or construct, build, modify, or erect a Tower upon such parcel of land.
- k. Person is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- l. Stealth means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees.
- m. Stealth Telecommunications Facility means any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- n. Support Structure(s) means a structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, Utility Poles and other freestanding self-supporting structures.
- o. Telecommunications Facilities means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, *telecommunications facilities* shall not include:
 - 1. Any satellite earth station antenna six (6) feet or less in diameter or less which is located in an area zoned industrial or commercial; or
 - 2. Any satellite earth station antenna three (3) feet or less in diameter, regardless of zoning category.
- p. Tower means a self-supporting lattice, guyed or monopole structure constructed from grade which supports telecommunications facilities. The term *tower* shall not include amateur radio operators' equipment, as licensed by the FCC.
- q. Utility Pole means a structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

- r. Wireless Facility means the set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.
- s. Wireless Support Structure means a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

17.4

DEVELOPMENT OF TOWERS

- a. A Tower shall be a permitted use of land in zoning districts designated as "Heavy Industrial" and/or "Light Industrial." No person shall build, erect, or construct a Tower upon any such parcel of land within a zoning district designated as "Heavy Industrial" and/or "Light Industrial" unless a special permit shall have been issued by the Lynn City Council. Application shall be made to the City of Lynn City Council in the manner provided in this chapter.
- b. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one-hundred and twenty (120) feet.
- c. No new tower shall be built, constructed, or erected in the City of Lynn unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six (6) months of the completion of the tower construction.
- d. Applicants for Telecommunications Facilities, Tower(s) or Antenna(s) shall locate, site and erect said Telecommunications Facilities, Tower(s) or Antenna(s) in accordance with the following priorities, one (1) being the highest priority and three (3) being the lowest priority.
 - 1. On existing Towers or other structures without increasing the height of the tower or structure;
 - 2. On City of Lynn-owned properties;
 - 3. On other properties within the City of Lynn.
- e. If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The applicant seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

- f. An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Lynn City Council why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- g. Notwithstanding the above, the Lynn City Council may approve any site located in an area in the above-list of priorities, provided that the City Council finds that the proposed site is in the best interest of the health, safety, and welfare of the citizens of Lynn and will not have a deleterious effect on the nature and character of the community and neighborhood.
- h. The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technical reasons for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
- i. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Lynn City Council may disprove an Application for any of the following reasons:
 - 1. Conflict with safety or safety-related codes and requirements;
 - 2. Conflict with the historic nature or character of a neighborhood or historical district;
 - 3. The use or construction of a Telecommunications Facility, Tower or Antenna which is contrary to an already stated purpose of a specific zoning or land use designation;
 - 4. The placement and location of the Telecommunications Facility, Tower or Antenna which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees, and agents of the City, or employees of the service provider or other services providers;
 - 5. Conflicts with provisions of this Ordinance, as amended.

17.5

APPLICATION OF TOWERS

- a. Towers shall be designed to accommodate the maximum number of users technologically possible. The intent of this requirement is to reduce the number of tower which will need to be sited in the City. Locating on existing Towers or other structures without increasing the height, shall be preferred by the City. An application to develop a tower shall include:
 - 1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated.

If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.

2. The legal description, assessor's map, lot number, and the address of the parcel of land upon which the tower is situated.
3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a five (5) mile radius of the proposed new tower site, including City-owned property.
4. A locus plan to scale of one inch equals 100 feet (1" = 100').
5. A Site Plan at a scale of one inch equals forty feet (1" = 40') which shall show all property lines, the exact location of the proposed structure, streets, landscape features, residential dwellings, all buildings within five hundred feet (500') of the facility and all abutters to the property.
6. A description of the design plan proposed by the applicant in the City. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of a microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
7. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on City-owned towers or usable antenna support structures located within a five (5) mile radius of the proposed tower site.
8. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by other persons located within a five (5) mile radius of the proposed tower site.
9. Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within a five (5) mile radius of the proposed tower site.
10. A written statement from an engineer(s) that the construction or placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
11. Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in Section 6.01, "Structural Requirements," of this Ordinance.

12. Written technical evidence from a qualified engineer(s) acceptable to the Fire Chief and the Building Commissioner that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
13. In order to assist the Building Department and the City Council in evaluating visual impact, the applicant shall submit color photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
14. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the City to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the City shall make available, upon request, copies of ongoing FCC information and RF emissions standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.
15. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on City-owned properties or structures or usable antenna support structures located within a five (5) mile radius of the proposed tower site.
16. Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on City of Lynn owned properties or structures located within a five (5) mile radius of the proposed tower site.
17. Documentation that demonstrates the need for the Telecommunications Facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.
18. The name, address, and phone number of the person preparing the report.
19. The Zoning District in which the property is located.

20. Size of the property stated, both in square feet and lot line dimensions, and a diagram showing the location of all lot lines.
 21. The location of the nearest residential structure.
 22. The location, size, and height of all structures on the property which is the subject of the Application.
 23. The location, size, and height of all proposed and existing antennae and all appurtenant structures.
 24. The type, locations, and dimensions of all proposed and existing landscaping and fencing.
 25. The number, type, and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users.
 26. In the case of a new Telecommunication Facility or Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or Telecommunication Facilities or the use of City of Lynn owned properties and structures.
- b. The Lynn City Council may require an applicant to supplement any information that it considers inadequate or that the applicant has failed to supply. The City Council may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection.

17.6 DESIGN GUIDELINES

17.6.1 SETBACKS

- a. All towers shall be set back on all sides a distance not less than equal to the height of the tower.
- b. Setback requirements for towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- c. Setback requirements may be modified, as provided in Section 6.01, when placement of a Tower in a location will reduce the visual impact. For example, adjacent to trees which may visually hide the Tower.

17.6.2 STRUCTURAL REQUIREMENTS

All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the State Building Code, and any other standards outlined in this Ordinance. All towers in operation shall be fixed to land.

17.6.3 SEPARATION OF BUFFER REQUIREMENTS

For the purpose of this Section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or proposed structure and the proposed base, pursuant to a site plan

of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of City jurisdictional boundaries.

- a. Towers shall be separated from all residentially zoned lands by a minimum of two-hundred (200) feet or two-hundred (200%) percent of the height of the proposed Tower, whichever is greater.
- b. Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this section.
 1. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven-hundred and fifty (750) feet.
 2. Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of fifteen-hundred (1,500) feet.
 3. Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven-hundred and fifty feet (750').

17.6.4

METHOD OF DETERMINING TOWER HEIGHT

Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than twenty (20) feet over the top of the tower structure itself. Tower height shall be measured from grade.

17.6.5

ILLUMINATION

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-hundred (300%) percent of the height of the tower from the tower and when required by Federal law, dual mode lighting shall be requested from the FAA.

17.6.6

EXTERIOR FINISH

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

17.6.7

LANDSCAPING, FENCING, AND SIGNS

All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The City may require landscaping in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

Fencing shall be provided to control access to the towers and shall be compatible with the landscape.

Signs shall be posted announcing “No Trespassing”, and giving the name, address and telephone number of a person or persons to be contacted in case of an emergency at any time of the day or night.

17.6.8

STEALTH DESIGN

Insofar as it is practical to do so, all applications for towers shall be of stealth design.

17.7

TELECOMMUNICATIONS FACILITIES ON ANTENNAE SUPPORT STRUCTURES

Any telecommunications facilities which are not attached to a tower may, by Special Permit, be permitted on any antenna support structure at least forty (40) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is placed. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the City Council, establish the following at the time an application is submitted for such special permit.

- a. The height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than twenty (20) feet;
- b. That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, as such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an antenna support structure.

TOWERS MODIFICATION OF EXISTING

- a. A tower existing prior to the effective date of this Ordinance, which was in compliance with the City's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a non-conforming structure. Such non-conforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections 6.03, "Separation or Buffer Zone Requirements," 6.10 "Certification and Inspections," and 6.11 "Maintenance," provided:
 1. The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within (6) months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating tele-communications facilities of any person currently installed to the tower.
 2. An application for a Special Permit is made to the City Council which shall have the authority to issue a Special Permit after a formal hearing. The grant of a Special Permit pursuant to this section allowing the modification or demolition and rebuilding of an existing non-conforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
 3. The height of the modified or rebuilt tower and telecommunications facilities attached thereto does not exceed the maximum height allowed under this Ordinance.
- b. Except as provided in this Section, a non-conforming structure or use may not be enlarged, increased in size, or discontinued in use for a period or more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted which structure or use is in violation of the zoning ordinance prior to the enactment of this section.

CERTIFICATION AND INSPECTIONS

- a. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and all other construction standards set forth by Federal, State, and local law. For new monopole towers, such certification shall be submitted with an application pursuant to Section 5 of this Ordinance and every five (5) years thereafter. For existing monopole towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For a new lattice or guyed towers, such certifications shall be submitted with an application pursuant to Section 5 of this Ordinance and every two (2) years thereafter. For existing lattice or guy towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every two (2) years thereafter. The tower owner may be

required by the City to submit more recent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

- b. The City or its Agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by Federal, State and local laws.
- c. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the City owner. All expenses related to such inspections by the City shall be borne by the tower owner.

17.10

MAINTENANCE

- a. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- b. Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, State, and local regulations, and in such manner that will not interfere with the use of other property.
- c. All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- d. All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
- e. All towers shall maintain compliance with current RF emission standards of the FCC.
- f. In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

17.11

CRITERIA FOR SITE PLAN APPROVAL AND SPECIAL PERMITS

- a. In addition to every other requirement for a tower application as provided in this Section, every application for the location of a telecommunications tower shall include the following:
 - 1. A description of how the plan addresses any adverse impact that might occur as a result of approving the application.
 - 2. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the application.
 - 3. A technical study that documents and supports the criteria submitted by the applicant upon which the application is

based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed applications and its relationship to surrounding rights-of-way and properties.

4. For a modification of the setback requirements, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
 5. The City Council may require the application to be reviewed by an independent engineer under contract to the City to determine whether the antenna study supports the basis for the application requested. The cost of review by the City's engineer shall be reimbursed to the City by the applicant.
- b. The City Council shall consider the following additional criteria:
1. That the tower will be compatible with and not adversely impact the character and integrity of the surrounding properties.
 2. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the application.
 3. In addition, the City Council may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the application.
- c. In addition to the requirements of subparagraphs (a) and (b) of this Section, in the following cases, the applicant must also demonstrate, with written evidence, the following:
1. In the case of a requested modification to the setback requirement, Section 6.01, that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower on another site which is closer in proximity to a residentially zoned land.
 2. In the case of a request for modification to the separation and buffer requirements from other towers of Section 6.03, "Separation or Buffer Requirements," that the proposed site is zoned "Heavy Industrial" or "Light Industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided in Section 6.03.
 3. In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Section 6.03, if the person provides written technical evidence from an engineer(s) that the proposed tower and

telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned property.

4. In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to:
 - i. facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or
 - ii. to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

17.12

ABANDONMENT

If any tower shall cease to be used for a period of 365 consecutive days, the Building Commissioner shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the City Council that such site has been abandoned. The owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the tower shall, within seventy-five (75) days, dismantle the tower.

17.13

INSURANCE

All applications submitted to the Lynn City Council for permission to develop, construct or erect antennas, antenna support structures, monopoles, stealth telecommunication facilities, support structures, telecommunication facilities, towers, utility poles, wireless facilities and wireless support structures shall be accompanied by written proof of insurance and/or cash bond covering accidents, personal injury, property damage and liability as well as the cost to remove abandoned equipment. The amount of said insurance and cash bond shall in no event exceed fifteen million (\$15,000,000.00) dollars per application. The amount established as insurance and/or cash bond shall be determined by the size and scope of the application, the amount of equipment sought to be developed, constructed or erected, throughout the City, the proximity to residential dwellings and the cost of the proposed project.

SECTION 18

LAND BASED WIND ENERGY CONVERSION FACILITIES FOR LYNN, MASSACHUSETTS

18.1

PURPOSE AND INTENT

It is the express purpose of this Ordinance to accommodate distributed generation, wind energy conversion facilities (not residentially-scaled facilities) in appropriate locations, while minimizing any adverse visual, safety, and environmental impacts of the facilities. The Ordinance enables the review of wind energy conversion facilities by the Lynn City Council in keeping with the City's existing Ordinances. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site plan review and other local Ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Lynn.

18.2

DEFINITIONS

- a. Clear Area: Area surrounding a wind turbine to be kept free of habitable structures.
- b. Distributed Generation: Energy generation that is located at or near the end-user.
- c. Height: The height of a turbine measured to the tip of the blade at its highest point.
- d. Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.
- e. Rotor: The blades and hub of the wind turbine that rotate during turbine operation.
- f. Special Permit Granting Authority (SPGA): The Lynn City Council.
- g. Wind Energy Conversion Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.
- h. Wind Monitoring or Meteorological ("test" or "met") Towers: Tower used for supporting anemometer, wind vane, and other equipment to assess the wind resource at a predetermined height above the ground.

- i. Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

18.3 DISTRICT REGULATIONS

18.3.1 USE REGULATIONS

All wind energy conversion facilities or wind monitoring towers shall require a building permit and may be permitted as follows and irrespective of whether the use is a principal or accessory use:

18.3.1.1 WIND ENERGY CONVERSION FACILITY

The construction of any wind energy conversion facility shall be permitted in the Heavy Industrial municipal zoning district, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Regulations set forth in Sections 3 and 4 of this Ordinance (unless waived by the SPGA).

18.3.1.2 WIND MONITORING OR METEOROLOGICAL TOWERS

Wind monitoring or meteorological towers shall be permitted in the Heavy Industrial municipal zoning district subject to issuance of a building permit for a temporary structure.

18.3.2 SITE CONTROL

The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a Special Permit. Documentation should also include proof of control over the setback or clear areas, if required under Section 3.3.2. Control shall mean legal authority to prevent the use of any structure within the setback or clear area for human habitation or other use permitting human occupancy.

18.3.3 DIMENSIONAL REQUIREMENTS

All wind energy conversion facilities shall comply with the requirements set forth in this Section, unless waived by the SPGA as part of the Special Permit review process.

18.3.1 HEIGHT

Wind energy conversion facilities shall be no higher than 450 feet above the natural grade. The height of all wind turbines shall be measured to the highest point reached by the rotor blades. The SPGA may allow this height to be exceeded as part of the Special Permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any increase adverse impacts. Monopole towers are the preferred type of support for wind turbines.

18.3.2

SETBACK OR CLEAR AREA

- a. Each wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.
- b. In addition, the following setbacks shall be observed:
 1. In order to ensure public safety and to protect the interests of neighboring property owners, the minimum distance from the base of any wind turbine tower to any property line, dwelling, business or institutional use shall be equal to the total height of structure to the highest point. This setback is considered a "Clear Area."
 2. The setback or Clear Area(s) should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The SPGA may reduce the Clear Area as appropriate based on site specific considerations and if the project is consistent with the Special Permit granting criteria of the City.

18.4

SPECIAL PERMIT REGULATIONS

The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provision of this Ordinance (unless waived) and is consistent with the applicable criteria for granting Special Permits.

18.4.1

GENERAL

Proposed wind energy conversion facilities shall be consistent with all applicable local, State and Federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental, and communications requirements.

18.4.2

DESIGN STANDARDS

18.4.2.1

VISUAL IMPACT

The proponent shall demonstrate through project siting and proposed mitigation that the wind energy conversion facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting and cable layout.

18.4.2.2

COLOR

Wind energy conversion facilities shall be painted a non-reflective color that blends with the sky and clouds.

18.4.2.3

EQUIPMENT SHELTERS

All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed with a separate structure or behind a year-round landscape or vegetated buffer.

18.4.2.4

LIGHTING AND SIGNAGE

- a. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
- b. Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.
- c. Signs on the facility shall be limited to:
 1. Those needed to identify the property and the owner and warn of any danger; and
 2. Educational signs providing information on the technology and renewable energy usage.
- d. All signs shall comply with the requirements of the City's Sign regulations.

18.4.3

ENVIRONMENTAL STANDARDS

18.4.3.1

WETLANDS

Wind energy conversion facilities shall be located in a manner consistent with all applicable location and State wetlands regulations. Wetland buffer areas may be used for the purposes of providing a Clear Area.

18.4.3.2

LAND CLEARING/OPEN SPACE/ RARE SPECIES

Wind energy conversion facilities shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Wind energy conversion facilities shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.).

18.4.3.3

STORMWATER

Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable State and local regulations.

18.4.3.4

NOISE

The wind energy conversion facility and associated equipment shall conform to Massachusetts Noise Regulations (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with

these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

18.4.3.5

SHADOWING/FLICKER

Wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

18.4.4

SAFETY STANDARDS

No hazardous materials or waste shall be discharged on the site of any wind energy conversion facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement.

The wind energy conversion towers shall also be designed to prevent unauthorized access (for example, by construction of a fenced enclosure or locked access).

18.5

USE BY TELECOMMUNICATIONS CARRIERS

Wind energy conversion facilities may be used to locate telecommunications antennas, in compliance with the City of Lynn Zone Ordinance, and subject to the following requirements:

- a. All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round (either through effective landscaping or existing natural vegetated buffers).
- b. Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower.
- c. All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

18.6

MODIFICATIONS

All modifications to a wind energy conversion facility made after issuance of the Special Permit shall require approval by the SPGA in accordance with the City's existing process for modifications to Special Permit approvals.

18.7.

MONITORING AND MAINTENANCE

18.7.1

After the wind energy conversion facility is operational, the applicant shall submit to the City, at annual intervals from the date of issuance of the

Special Permit, a report detailing operating data for the facility (including, but not limited to, days of operation, energy production, etc.).

18.7.2 The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.

18.7.3 Notice shall be provided to the City of any change in the owner of the facility.

18.8 ABANDONMENT OR DISCONTINUATION OF USE

18.8.1 At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the Applicant will notify the City by certified US Mail delivered to the Building Commissioner, of the proposed date of abandonment or discontinuation of operation. In the event that an Applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 180 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.

18.8.2 Upon abandonment or discontinuation of use, the owner shall physically remove the wind energy conversion facility within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the operator and at the discretion of the SPGA. "Physically remove" shall include, but not be limited to:

- a. Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.
- b. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and State solid waste disposal regulations.
- c. Restoration of the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-condition.

18.9. If an Applicant fails to remove a wind energy conversion facility in accordance with this Section of this Ordinance, the City shall have the authority to enter the subject property and physically remove the facility. The SPGA may require the Applicant to provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA's jurisdiction at the time of construction to cover costs of the removal in the event the City must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of compliance with this section.

The applicant shall submit a fully-inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism of a Cost of Living Adjustment after 10 and 15 years.

18.10.

TERM OF SPECIAL PERMITS

A Special Permit issued for any wind energy conversion facility shall be valid for twenty-five (25) years, unless extended or renewed. The time period may be extended or the Special Permit may be renewed upon satisfactory operation of the facility. If the Special Permit is not renewed or extended the facility must be taken down. The Special Permit can be revoked for violations of City, State or Federal laws or regulations, at which time the facility must be taken down.

18.11

APPLICATION PROCEDURES

18.11.1

SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

The SPGA for wind energy conversion facilities shall be the City Council

18.11.2

PRE-APPLICATION CONFERENCE

Prior to the submission of an application for a Special Permit under this regulation, the applicant must meet with the SPGA at a public meeting to discuss the proposed wind energy conversion facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within 21 days following a written request submitted to the SPGA and the City Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application under this regulation without need for a pre-application conference.

18.11.3

PRE-APPLICATION FILING REQUIREMENTS

The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed wind energy conversion facility. As such, no formal filings are required for the pre-application conference. However, the Applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

18.11.4

APPLICATION AND PROFESSIONAL FEES

The application fee to the SPGA shall be \$175.00. The application fee shall include costs required to advertise the application as required by State and municipal law. In addition to the application fees, the City may engage in the services of a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.

18.11.5

ADDITIONAL REQUIREMENTS

Within 30 days of the pre-application conference, or within 21 days of filing an application for a Special Permit, the Applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days, prior to the test. In addition, notice shall be provided to the City, abutters and abutting Historic Commissions, and an identical courtesy notice shall be sent to the City Clerk of all adjacent cities.

18.11.6

APPLICATION FILING REQUIREMENTS

The following shall be included with an application for a Special Permit for each wind energy conversion facility:

18.11.6.1

GENERAL FILING REQUIREMENTS

- a. Name, address, telephone number and original signature (photo-reproductions of signatures will not be accepted) of applicant and any co-applicants. Co-applicants may include the landowner of the subject property or the operator of the wind energy conversion facility. If telecommunications antennas are proposed, a telecommunications carrier should be a co-applicant.
- b. If the applicant or co-applicant will be represented by an agent, the name, address and telephone number shall be provided as well as original signature authorizing the agent to represent the applicant and/or co-applicant shall be provided. Photo-reproductions of signatures will not be accepted.
- c. Documentation of the legal right to install and use the proposed facility and proof of control over the clear area, per Section 03.2 of these regulations.

18.11.6.2

LOCATION FILING REQUIREMENTS

- a. Identify the subject property by including the City, as well as the name of the locality, name of the nearest road or roads, and street address, if any;
- b. Tax map and parcel number of subject property;
- c. Zoning district designation for the subject parcel (submit copy of City zoning map with parcel identified).
- d. A line map to scale showing the lot lines of the subject property and all properties within 300 feet of the property lines, as well as the location of all buildings, including accessory structures, on all properties shown.

18.11.7

SIGHTING AND DESIGN FILING REQUIREMENTS

18.11.7.1

VICINITY/SITE MAP

A one-inch-equals 40 feet vicinity plan, signed and sealed by a Registered Professional Engineer or Licensed Surveyor showing the following:

- a. Property lines for the subject property and all properties adjacent to the subject property within 300 feet.
- b. Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) of subject property and all adjacent properties within 300 feet. Distances, at grade, from the proposed wind energy conversion facility to each building on the vicinity plan shall be shown.

Proposed location of the wind energy conversion facility, including all turbines, fencing, associated ground equipment, transmission infrastructure and access roads, including:

1. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wind energy conversion facility.
 2. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
 3. Representations, dimensioned and to scale, of the proposed facility, including cable locations, parking areas and any other construction or development attendant to the wind energy conversion facility.
- c. [Reserved.]
 - d. Tree cover and average height of trees on the subject property and adjacent properties within 300 feet.
 - e. Contours at each two feet Above Main Sea Level (AMSL) for the subject property and adjacent properties within 300 feet.
 - f. Representation of location of view point for the sight-line diagram referenced below.

18.11.7.2

SIGHT LINES AND PHOTOGRAPHS

- a. Sight-line representation. A sight-line representation shall be drawn from representative locations that show the lowest point of the turbine tower visible from each location. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. There shall be at least two sight line representations illustrating the visibility of the facility from surrounding areas such as the closest habitable structures or nearby public roads or areas.
- b. Existing (before condition) photographs. A color photograph of the current view shall be submitted from at least two locations to show the existing situation.

- c. Proposed (after condition). Each of the existing-condition photographs shall have the proposed wind energy conversion facility superimposed on it to accurately simulate the wind energy conversion facility when built and illustrate its total height, width, and breadth.

18.11.3

ELEVATIONS

Sighting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed wind energy conversion facility.

Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot (1/8" = 1') scale and show the following:

Wind energy conversion facility and, if applicable, the security barrier and associated equipment, with total elevation dimensions of all parts of the facility.

- a. Security barrier. If the security barrier will block views of the wind energy conversion facility, the barrier drawing shall be cut away to show the view behind the barrier.
- b. [Reserved.]
- c. Any and all structures on the subject property.
- d. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- e. Grade changes, or cuts and fills, to be shown as original grade and grade line, with two-foot contours above mean sea level.

18.11.4

MATERIALS

- a. Specifications for the proposed wind energy conversion facility shall be provided for all equipment and attendant facilities.
- b. Materials of the proposed wind energy conversion facility specified by type and specific treatment. These shall be provided for the wind turbine tower and all other proposed equipment/facilities.
- c. Colors of the proposed wind energy conversion facility represented by a color board showing actual colors proposed.

18.11.5

LANDSCAPE PLAN

A Landscape Plan including existing trees and shrubs and those proposed to be added or removed, identified by size of specimen at installation and species.

18.11.6

LIGHTING PLAN

If lighting of the site or turbine is proposed (other than FAA lights), the Applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the

property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

18.11.4 ENVIRONMENTAL REQUIREMENTS

18.11.4.1 NOISE FILING REQUIREMENTS

The Applicant shall provide a statement listing the existing noise levels and the maximum future projected noise levels from the proposed wind energy conversion facility. Such statement shall be certified and signed by a qualified engineer, stating that noise projections are accurate and meet the noise standards of this ordinance and applicable State requirements.

18.11.4.2 OTHER

The Applicant shall submit information illustrating how the project is consistent with the environmental standards of this ordinance.

18.11.5 ENFORCING AUTHORITY

The Department of Inspectional Services shall be the enforcing Authority of this Ordinance.

18.11.6 VIOLATION FEES

Violation of the Ordinance shall result in a fine with each day being a continuing violation.

SECTION 19 **ADULT ENTERTAINMENT**

SECTION 1 **DEFINITIONS**

Adult Bookstore means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31. For the purpose of this ordinance, the term "substantial or significant portion" means that more than 10 percent of the total floor area or stock is devoted to the items listed above.

Adult Paraphernalia Store means an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31.

Adult Video Store means an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting,

describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31.

Adult Motion Picture Theater means an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31. This definition includes, but is not limited to, adult arcade, adult mini-motion picture theater, adult booth(s), adult drive-in theaters.

Adult Booth means an enclosed or partitioned area inside an adult oriented establishment which is: (I) designed or used for the viewing or listening of adult material by one (1) or more persons and (II) is accessible to any person, regardless of whether a fee is charged for access. The term "Adult Booth" includes, but is not limited to, a "peep show" booth or other booth used to view or listen to adult material (including, but not limited to, videotapes, audiotapes, films, CD-ROMs, DVDs or internet access).

Adult Dancing means any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, as defined in this Ordinance.

Adult Dancing/Entertainment Establishments means an establishment, including but not limited to, a restaurant (eating and drinking establishments), lounge, dance hall, nightclub or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, independent contractors or other customers perform dance routines and/or display or expose specified anatomical areas, offered as adult oriented entertainment for viewing by patrons or spectators on the premises and characterized by the emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult Cabaret: See "Adult Dancing/Entertainment Establishments".

Adult Motel means a motel or similar establishment with the word "adult" or otherwise that advertises the presentation of adult material, offering public accommodations for any form or consideration which provides patrons with closed circuit television transmission, internet access, films, motion pictures, video cassettes, slides, CD-ROMs, DVDs or other photographic reproductions for the primary purpose of sexual gratification or as related to specified sexual activities.

Sexual Encounter Center means an establishment whose primary or accessory business is the provision on premises where customers either congregate, associate or consort with employees, agents, servants,

independent contractors or other customers who engage in specified sexual activities in the presence of such customers or who display specified anatomical areas in the presence of such customers with the intent of providing sexual stimulation or sexual gratification appealing to adult sexual interests.

Massage Parlor means an establishment providing massages by persons other than a licensed health care professional, including activities that rub, stroke, knead or tap the body with the hand or an instrument or both for the purpose of or engaging in sexual gratification or as related to specified sexual activities. This definition also includes those activities listed within "Sexual Encounter Center". However, massages as used in this Ordinance shall not apply to the activity of any person who is registered or licensed by the United States Government or any agency thereof or by the Commonwealth of Massachusetts or any agency thereof, while such person so registered or licensed is performing the services for which the registration or license was issued and during the period of time said registration or license is in effect.

Specified Anatomical Areas means an area including, but not limited to, less than completely and opaquely covered: (I) human genitals or pubic region; (II) the cleavage of the human buttock; (III) any portion of the human female breasts below a horizontal line across the top of the areola at its highest point, the entire lower half of the human female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided that the areola is not exposed in whole or in part; and (IV) human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities means activities including, but not limited to, human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks or human breast(s); flagellation or torture on the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of pain; erotic touching, fondling or other such contact with an animal by a human being; excretory functions as part of or in connection with any of the activities listed herein.

SECTION 2

PERMITTED DISTRICTS

Adult oriented uses are permitted with a Special Permit from the City Council in Heavy Industrial and no other districts, subject to the following regulations:

1. No lot occupied, or to be occupied, by an adult oriented use shall be located within a five-hundred (500) foot radius from a residential zoning district or a building containing residences.

2. No lot occupied, or to be occupied, by an adult oriented use shall be within a five hundred (500) foot radius from the grounds of a public or private school, place of worship, licensed daycare facility, public library, public park or A structure or parcel used for a senior center, nursing home or assisted living facility.
3. No lot occupied, or to be occupied, by an adult oriented use shall be located within a five-hundred (500) foot radius of any other adult oriented use as defined.
4. Adult oriented uses will not be situated within a five-hundred (500) foot radius of any establishment that serves or sells alcoholic beverages that are consumed on the premises or taken out.
5. Method of measurement of distances: The distances required by this Section shall be measured from the closest property line occupied, or to be occupied, by an adult oriented use to the closest property line occupied by a protected use, zoning district or another adult oriented use. For the purpose of this ordinance, the term "protected use" includes, but is not limited to, residential zoning districts, buildings containing residences, grounds of a school, place of worship, public library or public park.
6. Prohibition of physical contact: While on the premises of an adult oriented use, no employee, agent, servant, independent contractor or other customer shall be permitted to have physical contact with any other adult entertainment employee, other employee, patron or spectator while the employee, agent, servant, independent contractor or other customer is entertaining, dancing or otherwise involved in the display of or exhibition of specified anatomical areas or specified sexual activities.
7. Exterior Display: No adult-oriented use shall be conducted in any manner that permits the observation of any material depicting or relating to specified anatomical areas or specified sexual activities from any public or private way, parking area or adjacent properties. This provision shall apply to any display, signage, show window or opening.
8. Sign Requirements: Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one (1) identification sign, to be mounted on the building wall face, shall be allowed for an adult orientated use. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited. No adult-oriented use shall have any flashing lights visible from the exterior of the use. Furthermore, no sign shall rotate or contain reflective or florescent elements.
9. Non-conforming Use: Any adult oriented use in existence as of the effective date of this Ordinance, which is in violation hereof, shall be deemed a non-conforming use. Such non-conforming uses shall not in any manner be enlarged, altered or rebuilt.

10. In addition, any now existing retailer who is engaged in the sale and/or rental of books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials shall cover the front page of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials or shall maintain a separate viewing and sales area for the rental and/or sale of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials as defined by this ordinance so as to prevent minors from viewing or entering said adult entertainment area.
11. Whoever disseminates to a minor any matter harmful to minors, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be in violation of this ordinance. For the purposes of this ordinance, "a minor" is a person under eighteen years of age. Matter is harmful to minors if it is obscene or if taken as a whole, it (1) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors; and (3) lacks serious literary, artistic, political or scientific values for minors. It shall be a defense under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense that the defendant was a bona-fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.
12. No Adult Entertainment Use Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, Sec. 63 or M.G.L. c.272, Sec. 28 registered with or required to be registered under the Sex Offender Registration Law, G.L. Chapter 6, sections 178C et. seq. or its successor.
13. All building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
14. No material described in the definitions of adult entertainment uses in this Ordinance that depicts, describes or relates to nudity or sexual conduct as defined in G.L. Chapter 272, section 31 shall be so located in or on the building housing such adult use which is visible to the public from the outside of the premises in which an adult use is permitted. No advertising, or other material, whether displayed in the window or affixed to the building shall be permitted which depicts, describes or relates to nudity or sexual conduct as defined in G.L. Chapter 272, Section 31.

15. No adult entertainment use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.
16. Adult entertainment uses shall not be open to the public between the hours of 11:30 P.M. and 9:00 A.M.
17. At no adult entertainment use or facility of any kind shall alcoholic beverages be allowed, sold, served or suffered to be used or consumed at any time.
18. If the adult entertainment use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors, or screens. All such booth openings shall be clearly seen from the center of the establishment.

SECTION 3

CRITERIA FOR SPECIAL PERMITS

No Special Permit shall be granted for any adult entertainment establishment unless the Lynn City Council shall have made detailed findings, based upon the required submission that:

- a. The specific site is an appropriate location for such use in accordance with the standards set forth in the foregoing.
- b. The use as developed and carried on will not adversely affect the neighboring properties or people.
- c. The use as developed and carried on will not create a nuisance or serious hazard to vehicles or pedestrians traveling into, out of and about the premises.
- d. The use as developed shall provide adequate and appropriate facilities for its proper operation, taking into account the public health and welfare of its patrons and the surrounding environs of the property.

SECTION 4

APPLICATION

1. In addition to the submittal requirements and review standards pertaining to administration, application and submission requirements, fees, powers, hearings and time limits, provided in this ordinance, each applicant for a special permit under this section shall submit:
 - a. A security plan detailing how the property will be policed so as to avoid unruly and/or illegal activities from taking place upon the applicant's property and to deter and prevent incidents of vandalism, loitering and other associated activities upon its property.
 - b. A plan to protect adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - c. Evidence that adequate storm-water and drainage facilities are available or will be provided to service the use; this information shall be contained on the site plan. The site plan shall also demonstrate the

- adequacy of water supply and sewerage disposal facilities to service the site and the proposed use.
- d. Evidence that the adult entertainment establishment will not generate excessive noise so as to create a disturbance and nuisance to adjacent or neighboring properties.
2. Each application for a Special Permit under this section shall include a site plan showing:
 - a. The location, arrangement, appearance and sufficiency of off-street parking and loading. In computing the required off-street parking, the proposed adult entertainment establishment shall calculate its required parking pursuant to the category entitled, "Food Service Establishment".
 - b. The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - c. The location and adequacy of fire lanes and other emergency zones, and the location of fire hydrants, where applicable.
 - d. The locations, arrangement, size, design and general site compatibility of lighting and signs to be erected thereon. Any outdoor lighting used to advertise the business operated on the premises, and/or to illuminate the off-street parking areas, shall not cause a nuisance to adjacent properties.
 - e. A plan detailing the adequacy, type, and arrangement of trees, shrubs and other landscaping which shall constitute a visual and/or noise buffer between the applicant's land and the adjoining lands. Wherever possible, the maximum retention of existing vegetation shall be required.
 - f. A non-refundable Special Permit application fee in the amount of \$2,500.00
 3. The site plan shall be drawn to a scale of not less than forty feet to the inch, on one or more sheets, prepared by a professional engineer, and a professional land surveyor, when applicable, illustrating the information to identify location, applicant, owner and party responsible for preparing the plan.

SECTION 5

LICENSE TERM

Any Special Permit granted under this section shall lapse and become null and void:

1. If a substantial use thereof has not commenced within six months from the date of the grant thereof, including such time required to pursue or await the determination of an appeal, except for good cause; or, in the

- case of a permit for construction, if construction has not begun by such date, except for good cause; or,
2. Thirty days after the date of a conviction under the provisions of G.L. Chapter 119, Section 63 or G.L. Chapter 272, Section 28 by any person having an interest in said adult entertainment establishment, unless said person divests him or herself of such interest by such date; or,
 3. Immediately whenever any person having been convicted of violating M.G.L. Chapter 119, Section 63, or G.L. Chapter 272, Section shall acquire an interest in said adult entertainment establishment or registered with or required to be registered under the Sex Offender Registration Law, G.L. Chapter 6, Sections 178C et. Seq. or its successor.
 4. A Special Permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date of issuance and shall be eligible for renewal for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon notification of adverse changes regarding the public safety factors applied at the time that the original special permit was granted.

SECTION 20

FLOODPLAIN DISTRICTS

SECTION 20.1

FLOODPLAIN/WATERSHED PROTECTION PROVISIONS

- A. There is hereby established a Floodplain/Watershed Protection District, the purpose of which is to:
1. assure the continuation of the natural flow patterns of watercourses within the city;
 2. provide adequate and safe floodwater storage capacity in order to protect persons and property against increase in the hazards of flood inundation;
 3. protect and preserve the water table and groundwater recharge areas within the city; and
 4. allow the city to maintain compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, and the regulations promulgated pursuant thereto.
- B. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of Massachusetts General Laws and with the following:
1. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR).
 2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 3. Inland Wetland Restriction, DEP (currently 310 CMR 13.00);
 4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP currently 310 CMR 15, Title 5);
 5. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- C. Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- D. "The Flood Plain District includes all special flood hazard areas within the City of Lynn designated as Zones A, AE, AO and VE on the Essex County Flood Insurance Rate Map (FIRM), on file with the Department of Inspectional Services. The map panels of the Essex County FIRM that are wholly or partially within the City of Lynn are panel numbers 25009C0394F, 25009C0413F, 25009C0414F, 25009C0526F and 25009C0527F dated July 3, 2012; and 25009C0507G, 25009C0528G, 25009C0529G, 25009C0531G and 25009C0533G dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report (25009CV001B,

25009CV002B, 25009CV003B, and 25009CV004B) dated July 16, 2014.

- E. The provisions of this section shall take precedence over any conflicting city ordinance. Any uses in the Floodplain/Watershed Protection District, whether permitted by right or by special permit or variance, shall be subject to the following:
1. Except as provided in subsections (E)(2) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose; no dumping of trash, rubbish, garbage or junk or other waste materials shall be permitted; no filling, dumping, excavation, removal or transfer of gravel, sand, loam or other materials which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
 2. Subsection (E)(1) notwithstanding, after a public hearing the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed Protection District.
 - a. Any building, structure or filling for which compensatory storage is provided (except that with respect to any building, structure or filling on Land Subject to Coastal Storm Flowage, no compensatory storage shall be required) and for which certification is submitted by a registered professional engineer demonstrating that such building or structure shall not result in any increase in flood levels during the 100-year flood. Compensatory storage shall mean a volume not previously used for flood storage, and shall be incrementally equal to the theoretical volume of flood water at each elevation which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or wetland being affected by the proposed project. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the waterway.
 - b. Construction, operation, and maintenance of dams and other water-control devices including temporary alteration of the water level for emergency purposes.
 - c. Bridges and like structures permitting passage between lands of the same owner, except that such bridges and structures shall be constructed, maintained, and used at the expense and risk of such owner, and shall be designed and constructed so as to minimize the effect of such structures on water storage and water flow.
 - d. Parking lots, driveways, and walkways ancillary to permitted or existing uses within the district.

- e. Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, and any other noncommercial open-air recreation uses and structures ancillary to these uses.
 - f. Ancillary structures for farms, stock farms, truck gardens, nurseries, orchards, and tree farms.
 - 3. No order of conditions shall be issued under paragraphs (2)(b)-(2)(f) of this subsection unless it is demonstrated to the satisfaction of the conservation commission that the cumulative effect of the proposed project, when combined with all other existing and anticipated development, will not increase the water surface elevation of the 100-year flood at any point within the city.
- F. The construction, reconstruction or enlargement of any building or structure in the Floodplain/Watershed Protection District shall also be subject to the following provisions:
- 1. All construction of residential structures shall have the lowest floor (including the basement) at or above the pertinent flood elevation established within the City of Lynn on the Essex County Flood Insurance Rate Map (FIRM), on file with the Department of Inspectional Services, and all construction of non-residential structures shall have either the lowest floor (including the basement) at or above the pertinent flood elevation of said by the Essex County Flood Insurance Rate Map (FIRM) or along the attendant utility and sanitary facilities shall be flood proofed, i.e. designed so that below the established flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - 2. Where watertight flood proofing of a structure is permitted, a registered professional engineer or architect shall certify that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the pertinent flood levels.
- G. In its discretion, the conservation commission may accept a single notice of intent, conduct a single hearing, and issue a single order of conditions pursuant to its jurisdiction under this section and its jurisdiction under the Wetlands Protection Act, G.L. c. 131, sec. 40; provided, however, that in the event that the provisions of this section are more restrictive than those of the said Wetlands Protection Act and the regulations promulgated pursuant thereto, the provisions of this section shall control.
- H. Nothing in this section shall be deemed to prohibit the reconstruction (but not enlargement) of any building or structure destroyed by fire or

natural disaster, provided, however, that such a reconstruction shall be pursuant to an order of conditions issued by the conservation commission.

- I. The boundaries of the Floodplain/Watershed Protection District are intended to correspond with the maximum lateral extent of floodwater which will result from the one-percent chance flood (100-year flood). The district includes all special flood hazard areas within the City of Lynn designated as Zone A and AE on the by the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM. Said boundaries have been determined by reference to data prepared for the city pursuant to the National Flood Insurance Program, as currently administered by the Federal Emergency Management Agency. Said boundaries, so determined, shall be presumed accurate. This presumption may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.
- J. Within Zones AO as depicted on the FIRM, adequate drainage paths must be provided around structures and slopes, to guide floodwaters around and away from proposed structures.
- K. In Zones AE, along watercourses within the City of Lynn that have regulatory floodway designed on the Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- L. All subdivision proposals must be designed to assure that: (a) such proposals minimize flood damage; (b) all public utilities and facilities are located and constructed to minimize and eliminate flood damage; and (c) adequate drainage is provided to reduce exposure to flood hazards.
- M. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- N. The Director of the Inspectional Services Department shall establish "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Zoning Board of Appeals and the Building Commissioner for comments which will be considered by the appropriate board prior to issuing applicable permits.
- O. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which

would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- P. Base flood elevation data is required for subdivision proposals or other developments greater than SO lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- Q. Man-made alteration of sand dunes within Zones VE which would increase potential flood damage are prohibited.
- R. All new construction within Zone VE must be located landward of the reach of mean high tide.
- S. Section 14.3 is hereby deleted in its entirety.
- T. In a riverine situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:
 - 1. Adjacent Communities
 - 2. NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
 - 3. NFIP Program Specialist
Federal Emergency
Management Agency,
Region I 99 High
Street, 6th Floor
Boston, MA 02110

SECTION 21 MEDICAL MARIJUANA

21.1 MEDICAL MARIJUANA TREATMENT CENTER GENERALLY

The Medical Marijuana Treatment Center Overlay District affected by this zoning amendment shall include all areas delineated on the map presently available for viewing in the City of Lynn Inspectional Services Department. Generally, the areas include all properties on the with frontage on the southbound, non-water side of the Lynnway from Market/Broad Street to the General Edwards Bridge. The Medical Marijuana Treatment Center Overlay District shall also include all properties with frontage on Route 107/Western Avenue from the Belden Bly Bridge running northerly through and ending at the intersection of Western Avenue and Murphy Avenue.

21.2 GUIDELINES

The City of Lynn Department of Inspectional Services may issue guidelines for the implementation of this Ordinance, including but not limited to definitions of terms used in this Ordinance.

21.3 PERMITTING

1. Any proposed Medical Marijuana Treatment Center shall obtain an Operating Permit in the form and manner prescribed by the Department of Inspectional Services, as may be further set forth in the Guidelines.
2. In order to support execution of responsibilities set forth in this regulation, an annual Operating Permit fee shall be assessed in an amount that shall be set by the Chief of the Inspectional Services Department (“Chief”) and may be amended at the discretion of the Chief.
3. The Medical Marijuana Treatment Center operator shall post the Operating Permit in a clear and conspicuous manner.
4. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the City of Lynn without first obtaining a Dispensary Agent Permit issued annually by the Chief of the Inspectional Services Department. For purposes of this regulation, Dispensary Agent will include board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.
5. As part of the Permit application process, the applicant will be provided with this regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation.

6. Each applicant is required to provide to the Chief of the Inspectional Services Department proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years old or older.
7. Each applicant is required to provide the Chief of the Inspectional Services Department proof of a current Dispensary Agent registration, issued by the Commonwealth of Massachusetts, before a Permit can be issued.
8. In order to support execution of the responsibilities set forth in this regulation, a Dispensary Agent Permit fee shall be assessed in an amount that shall be set by the Chief of the Inspectional Services Department.
9. All Dispensary Agent and Operating Permits expire annually on December 31st and shall be valid for a maximum term of one year, renewable annually on January 1st.
10. No permit issued under this regulation may be transferred to any other person or entity.

21.4

REQUIREMENTS AND PROHIBITIONS

1. The cultivation, processing, distribution, sale and use of marijuana for medical purposes shall be conducted in compliance with all laws, ordinances, regulation or policies applicable to similar activities. This shall include, but not be limited to compliance with Food Service Health Permit requirements, Weights and Measures requirements, the City of Lynn Noise ordinance, Clean Air Works Workplace Smoking and E-Cigarette Regulation, and any and all requirements associated with zoning and permitting.
2. The cultivation, processing, distribution, or sale of marijuana for medical purposes shall not be exempt any person or entity from complying with all state and local laws, ordinances, regulation and policies. Violation of any other such law shall constitute a violation of this regulation and be subject to the fines and penalties described herein. Nothing in this Regulation gives any immunity under federal law or poses an obstacle to federal enforcement of federal law.
3. The issuance of an Operating Permit under this regulation shall be conditioned on Registration approval by the Massachusetts Department of Public Health as required by state law and regulations. Any revocation of a Medical Marijuana Treatment Center's state registration shall result in the automatic suspension of the Medical Marijuana Treatment Center's Operating Permit.
4. Medical Marijuana Treatment Centers shall submit a security plan for review to Chief of the Lynn Police Department and the Chief of the Inspectional

Services Department detailing all security measures taken to ensure patient and community safety and eliminate unauthorized access to the premises. The Lynn Police Department and the Chief of the Inspectional Services Department may issue guidelines or other procedure setting forth specific security requirements. Unless specified by any other state or local requirement or agreement as to the hours of operation of a Medical Marijuana Treatment Center, the Chief of the Inspectional Services Department, in consultation with Lynn Police Department, neighborhood associations, community organizations and residents, may set limitations on the hours of operation of any Medical Marijuana Treatment Center.

5. Each Medical Marijuana Treatment Center must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the Medical Marijuana Treatment Center's operating practices, policies and plans.
6. Medical Marijuana Treatment Centers must offer a secure patient or personal caregiver home delivery system that serves every address within Lynn's city limits and provides patient or personal caregiver home delivery service to any patient or personal caregiver residing in the City of Lynn who suffers a physical incapacity to access transportation as described by 105 CMR 725.035(A)(2).
7. A Medical Marijuana Treatment Center shall submit a plan for review to the Chief of the Inspectional Services Department detailing its plans to provide reduced cost or free marijuana to patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6). If said plan is deemed insufficient to ensure adequate patient access, no Operating Permit shall be issued.
8. The Chief of the Inspectional Services Department may set further limitations on signage and advertising of Medical Marijuana Treatment Centers, and may require the distribution of educational materials. Signage limitations may include, but need not be limited to those set forth in 105 CMR 725(105)(L), including restrictions on the use of images related to marijuana or marijuana paraphernalia, size and visibility of marijuana displays from outside a Medical Marijuana Treatment Center. Educational materials to be distributed may include a "patients' bill of rights" along with information on addiction and treatment resources.
9. A Medical Marijuana Treatment Center may not sell any products other than marijuana. For purposes of this subsection, "marijuana" may include Marijuana Infused Products, marijuana seeds, and other products that facilitate the use of marijuana for medical purposes, such as vaporizers. Medical Marijuana Treatment Centers may not sell any tobacco product, or

other nicotine delivery product, including e-cigarette cartridges or liquids that contain nicotine.

10. Medical Marijuana Treatment Centers shall submit data and reports to the Chief of the Inspectional Services Department in a form and manner determined by the Chief of the Inspectional Services Department.
11. The issuance or renewal of an Operating Permit may be conditioned up the approval of any plan or compliance with this Regulation or any guideline or requirement issued under the authority of this Regulation.
12. Issuance and maintaining a Dispensary Agent Permit shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
13. A Dispensary Agent Permit will not renewed if the Permit Holder has failed to comply with any corrective plan and/or has not satisfied any outstanding Permit suspensions.
14. Dispensary Agents must present their state Registration Card and Dispensary Agent Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
15. Inhaling, exhaling, burning or carrying any lighted or vaporized substance in any manner or form, including marijuana used for medical or any other purpose in a workplace shall constitute a violation of this regulation and shall be subject to the fines and penalties stated in the Clean Air Works Workplace Smoking and E-Cigarette Use Regulation.

21.5

ENFORCEMENT AND PENALTIES

1. Authority to inspect Medical Marijuana Treatment Centers for compliance and to enforce this regulation shall be held by the City of Lynn Inspectional Services Department, and the Lynn Police Department.
2. Any person may register a complaint under this Regulation to initiate an investigation and enforcement with the Chief of the Inspectional Services Department. Unscheduled compliance inspections shall be conducted at a minimum of three inspections annually.
3. Any fines or fees collected under this regulation shall be use for the administration and enforcement of this regulation and/or for any activities incidental to the regulation of medical marijuana.
4. It shall be the responsibility of the Medical Marijuana Treatment Center Occupancy Permit holder and/or individual in charge of the Medical Marijuana Treatment Center to ensure compliance with all applicable sections

of this regulation. Any Medical Marijuana Treatment Center found to be in violation of any of the provisions of these regulations may receive a written warning citation, Operating Permit suspension, Dispensary Agent Permit suspension, Operating Permit revocation, or Dispensary Agent revocation. For any violation Chief of the Inspectional Services Department may order the Medical Marijuana Treatment Center permit holder appear for a hearing before the Lynn City Council and/or enter into a corrective action plan to address any and all violations and prevent future violations. Any such corrective action plan is subject to the approval of the Lynn City Council and the Mayor.

5. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Chief of the Inspectional Services Department or a City of Lynn department or agency from suspending or revoking any license or permit issued by and within the jurisdiction of such department or agency for repeated or egregious violations of this regulation.
6. The Chief of the Inspectional Services Department may file a complaint in any court of competent jurisdiction and/or pursue any other remedy as warranted by law to enforce the provisions of this regulation.

21.6

APPEALS

1. Any Medical Marijuana Treatment Center Operating Permit holder, Dispensary Agent, or any person or entity charged with violation of any provision of this regulation shall receive a citation from a designated agent of the Inspectional Services Department. Such citation and any subsequent hearing notification shall be deemed a Notice of Action within the meaning of 801 CMR 1.02(6).
2. Unless waived, there shall be a hearing before a designed hearing officer and in accordance with procedures approved by the Chief of Inspectional Services Department, to determine the facts of the violation, the appropriate corrective action measures, term of suspension, if any, and/or issue a permit revocation order.
3. Any Medical Marijuana treatment Center Operating Permit holder, Dispensary Agent, or any person or entity cited for violation of this regulation wishes to appeal the findings and rulings of the Hearing Officer he/she shall file a written appeal, and any supporting memoranda and documents, within twenty-one (21) days of the date the Hearing Officer's decision is issued. The Inspectional Services Department shall file any response to the appeal within fifteen (15) days of the date of receipt of the appeal is filed.
4. The Chief of the Inspectional Services Department or his/her designee shall review the appeal and may hear oral argument. The Chief of the Inspectional Services Department or his/her designee shall make a written finding and

recommendation. The Chief of the Inspectional Services Department's decision shall be the final decision of the City of Lynn.

5. Failure to comply with any corrective action plan, suspension or revocation, shall result in automatic suspension of permit.

21.7

RETALIATION

No person, retailer, or employer shall discharge, refuse to hire, refuse to serve or in any manner retaliate or take any adverse action against any employee, applicant, customer or person because such employee, applicant, customer or person takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this Ordinance.

21.8

PROCEDURES

The City Council shall be the special permit granting authority (SPGA) for a Medical Marijuana Treatment Center special permit.

- A. Application: In addition to the materials required under Section 16 of the Zoning Ordinance, the applicant shall include:

1. A copy of its registration as a Medical Marijuana Treatment Center from the Massachusetts Department of Public Health;
2. A detailed floor plan of the premises of the proposed Medical Marijuana Treatment Center that identifies the square footage available and describes the functional areas of the Medical Marijuana Treatment Center, including areas for preparation of MIPs;
3. Detailed site plans that include the following information:
 - a. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this chapter;
 - b. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
 - c. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off site can reasonably be expected to be substantially affected by on-site changes;
 - d. Adequacy as to the arrangement and number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;

- e. Designs and appearance of proposed buildings, structures, freestanding signs, screening and landscaping;
 - f. Adequacy of water supply, surface and subsurface drainage and light.
 - g. A description of the security measures, including employee security policies, approved by the Department of Public Health for the Medical Marijuana Treatment Center;
 - h. A copy of the emergency procedures approved by the Department of Public Health for the Medical Marijuana Treatment Center;
 - i. A copy of the policies and procedures for patient or personal caregiver home delivery approved by the Department of Public Health for the Medical Marijuana Treatment Center;
 - j. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between the Medical Marijuana Treatment Center approved by Department of Public Health;
 - k. A copy of proposed waste disposal procedures; and
 - l. A description of any waivers from Department of Public Health regulations issued for the Medical Marijuana Treatment Center.
- B. The SPGA shall refer copies of the application to the Inspectional Services Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Department of Public Works, and the Planning Board. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
- C. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other City boards and departments, the SPGA may act upon such permit.

21.9

SPECIAL PERMIT CONDITIONS

The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Medical Marijuana Treatment Center, the SPGA shall include the following conditions in any special permit granted under this article:

- A. Hours of operation, including dispatch of home deliveries.
- B. The permit holder shall file a copy of any incident report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the Medical Marijuana Treatment Center. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- C. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by Department of public Health or the Division of Administrative Law Appeals, as applicable, regarding Medical Marijuana Treatment Center with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the Medical Marijuana Treatment Center.
- D. The permit holder shall provide the Zoning Enforcement Officer and the Chief of Police Department the name, telephone number and electronic mail address of the contact person in the event that such person needs to be contacted after regular business hours to address and urgent issue. Such contact information shall be kept updated by the permit holder.
- E. The special permit shall lapse within five years of its issuance. If the permit holder wishes to renew the special permit, an application to renew special permit must be submitted at least 120 days prior to the expiration of the special permit.
- F. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Medical Marijuana Treatment Center.
- G. The special permit shall lapse upon the expiration or termination of the applicant's registration by the Department of Public Health.
- H. The permit holder shall notify the Zoning Enforcement Officer and SPGA, in writing, within 48 hours of the cessation of operation of the Medical Marijuana Treatment Center or the expiration or termination of the permit holder's registration with Department of Public Health.

21.10

INCOME FORM HOST AGREEMENT

As a condition of the granting of a special permit, the Mayor of the City of Lynn is hereby required to negotiate a Host Agreement with an Applicant in order to minimize adverse effects and costs to the City of Lynn upon such terms the Mayor deems to be in the best interest of the City of Lynn. All incomes received by the City of Lynn from Host Agreements shall be subject to appropriation by the Lynn City Council.

SECTION 22

RECREATIONAL CANNABIS

SECTION 1

PURPOSE

The purpose of this section is to regulate the time, place and manner of Cannabis establishments. The zoning will serve to preserve the character of the community and create a place for residents to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the citizens' right to access legal cannabis, protecting the public health and safety and expanding new growth for the tax base.

SECTION 2

SCOPE

This section relates only to Cannabis establishments authorized by General Laws, Chapter 94G, and not to medical Cannabis treatment centers authorized by General Laws, Chapter 94I, the location and operation of which is governed elsewhere in this Ordinance, nor to Cannabis-related businesses not required to be licensed by Chapter 94G.

SECTION 3

DEFINITIONS

For the purpose of this document the word Cannabis is used in place of Marijuana as found in MA General Laws, Chapter 94G

- a. **Commission (CCC)**: The Cannabis Control Commission.
- b. **Community Host Agreement**: an agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis establishment and a municipality setting forth additional conditions for the operation of a Cannabis establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing.
- c. **Craft Co-Op**: a Cannabis cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand Cannabis and Cannabis products to deliver Cannabis to Cannabis establishments but not to consumers.
- d. **Independent testing laboratory**: a laboratory that is licensed by the commission and is:
 - 1. Accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission;

2. Independent financially from any medical Cannabis treatment center or any licensee or Cannabis establishment for which it conducts a test; and
 3. Qualified to test Cannabis in compliance with regulations promulgated by commission pursuant to this chapter.
- e. **Cannabis cultivator**: an entity licensed to cultivate, process and package Cannabis, to deliver Cannabis to Cannabis establishments and to transfer Cannabis to other Cannabis establishments, but not to consumers.
 - f. **Cannabis Cultivation**: Use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a Marijuana Cultivator, Micro-Business, Research Facility, Craft Marijuana Cultivator Cooperative, Registered Marijuana Dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning.
 - g. **Cannabis establishment**: a Cannabis cultivator, independent testing laboratory, Cannabis product manufacturer, Cannabis retailer or any other type of Cannabis business Licensed under Chapter 94G of the General Laws. The term does not include establishments whose business is related to Cannabis but does not involve the handling of Cannabis, for example, cultivation supplies and equipment.
 - h. **Cannabis product manufacturer**: an entity licensed to obtain, manufacture, process and package Cannabis and Cannabis products, to deliver Cannabis and Cannabis products to Cannabis establishments and to transfer Cannabis and Cannabis products to other Cannabis establishments, but not to consumers.
 - i. **Cannabis products**: products that have been manufactured and contain Cannabis or an extract from Cannabis, including concentrated forms of Cannabis and products composed of Cannabis and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.
 - j. **Cannabis retailer**: an entity licensed to purchase and deliver Cannabis and Cannabis products from Cannabis establishments and to deliver, sell or otherwise transfer Cannabis and Cannabis products to Cannabis establishments and to consumers.
 - k. **Micro-Business**: a cannabis establishment that is licensed to act as a: licensed cannabis cultivator in an area less than 5,000 square feet; licensed cannabis product manufacturer, and licensed cannabis delivery service in compliance with the operating procedures for each such license.

SECTION 4

PLACE

- a. No Cannabis establishment (except a cannabis retail sales storefront which has been permitted to operate as a medical cannabis treatment center, shall be located within 200 feet of pre-existing public or private school providing education in kindergarten or any grades 1 through 12 licensed by the Department of Education, in operation at the time of application for a special permit or site plan approval as measured by a typical path of travel door to door. This exception shall not apply to cannabis retail stores who are permitted to operate as a medical cannabis treatment center within the medical cannabis treatment center overlay district.
- b. No Cannabis establishment shall be located within 500 feet of another licensed Cannabis establishment.
- c. No Cannabis establishment shall be located within a building containing residential units, except mixed use buildings in the (CBD) and (BSBZ) zones. This prohibition includes transient housing or group housing.
- d. As defined in M.G.L. c. 94G, the number of cannabis retail storefronts shall be limited to not more than 20% of the number of licenses issued within the City for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138 §15.

Business Type	Zone Allowed
Cannabis retail sales storefront	B3, B, BSBZ, CBD, LI, HI ¹
Independent testing laboratory	B3, B, BSBZ, CBD, LI, HI
Delivery	B3, B, CBD, LI, HI
Cultivation, Manufacturer	LI, HI

- e. All Cannabis cultivation, processing, testing, product manufacturing, retail, and other state-licensed Cannabis businesses shall operate within a fully enclosed building. For purposes of this section, a greenhouse shall be considered a “fully enclosed building.” However, a partially enclosed deck that is part of a Cannabis business is allowed, as long as other provisions of this ordinance are met.
- f. A Cannabis retail sales storefront is permitted by Special Permit in the B, B3, BSBZ, CBD, LI and HI zoning district as well as those permitted within the medical cannabis treatment overlay district.
- g. An independent testing laboratory is permitted by Special Permit in the B3, B, BSBZ, CBD, LI and HI zoning districts.

- h. A craft, co-opt, cannabis cultivator, cannabis product manufacturer and micro-business shall be permitted by Special Permit in the LI and HI zoning districts.

FOOTNOTES:

- (1) Except retail cannabis sale storefronts that have also been permitted to operate a medical cannabis treatment center in any district in the City of Lynn within the medical cannabis treatment center treatment center overlay districts may be allowed in the zoning district in which there are allowed to dispense medical cannabis.

SECTION 5

TIME AND MANNER

- a. **Odor**: No Cannabis establishment shall allow the escape of noxious odors. They shall incorporate odor control technology and provisions, and ensure that emission do not violate MGL Chapter 111, Section 31C.
- b. **Signage**: All business signage shall be subject to the requirements of the Cannabis Control Commission, ordinances of the City of Lynn and any conditions contained in the Special Permit.
- c. **Visual Impact**: Cannabis plants, products, and paraphernalia shall not be visible from the outside of the building in which the cannabis establishment is located. No outside storage of any cannabis plants, products and paraphernalia is permitted.
- d. **Home Occupation**. Cannabis establishments are not permitted as a Home Occupation.
- e. **Security**. Every application for a Special Permit for the operation of a Cannabis establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of Cannabis and Cannabis products. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers are 21+. These plans shall be kept private (between the city and establishment) and out of the public record for the security of the establishment.

SECTION 6

OTHER

- a. **Community Host Agreement**. Any Special Permit Any Special Permit issued by the Lynn City Council shall be conditioned on the execution of a Community Host Agreement.
- b. **State Law**. Cannabis establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.

- c. **License requirement.** The applicant shall submit proof that the application to the Cannabis Control Commission has been deemed complete pursuant to 935 CMR 500.012. Copies of the complete application, to the extent legally allowed, shall be provided as integral component of the application to the Lynn City Council. No person shall operate a Cannabis establishment without having a license in good standing from the Commission (CCC).
- d. **Energy Use.** All cannabis cultivators shall submit an energy use plan to the Lynn City Council to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- e. **Line Queue Plan.** The applicant shall submit a line queue plan to ensure the that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be disrupted.
- f. **Traffic Impact Statement.** Any cannabis establishment open to the general public (such as retail dispensary, or, social consumption and delivery only operations) may be required to submit a detailed Traffic Impact Statement. This is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one the following uses which generates high volumes of trips: convenience stores, drive-in restaurants, automotive service station, or bank.
- g. **Parking.** Parking shall be governed pursuant to Section 9 of this Ordinance for retail establishments.
- h. **Permitting.** The Lynn City Council shall be the Special Permit Granting Authority.
- i. **Waivers.** The Lynn City Council may waive applicability of one or more of the requirements imposed by 935 CMR 500.000. The applicant shall be required to submit the request in writing and identify whether the waiver is from a provision in state law or local law. Any waivers from the state law should only be granted if said waiver was also approved by the Cannabis Control Commission under their waiver provisions available in 935 CMR 500.700. The following criteria can be used to request a waiver:
 - A. Compliance would cause undue hardship to the requestor;
 - B. If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
 - C. If applicable, the requestor has instituted compensating features that are acceptable to the Lynn City Council; and

- D. The requestor provides to the Lynn City Council written documentation, in a form and manner determined by the Lynn City Council, supporting its request for a waiver.
- j. **Hemp.** Nothing in this bylaw shall be construed to regulate the cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (non-cannabis) processing and product manufacture operations.